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# Comparative Print: Bill to Bill Differences

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Text of H.R. 5314, the Protecting Our Democracy Act Offered by M. \_\_\_\_\_ [Showing the text of H.R. 5314, as introduced with modifications.]

### SECTION 1. Short title.

This Act may be cited as the “Protecting Our Democracy Act”.

### SEC. 2. Organization of Act into divisions; table of contents.

(a) DIVISIONS.—This Act is organized into divisions as follows:

(1) Division A—Preventing Abuses of Presidential Power.

(2) Division B—Restoring Checks and Balances, Accountability, and Transparency.

(3) Division C—Defending Elections Against Foreign Interference.

(4) Division D—Severability.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. ~~1~~ Short title.  
 Sec. ~~2~~ Organization of Act into divisions; table of contents.

**DIVISION A—PREVENTING ABUSES OF PRESIDENTIAL POWER**

**TITLE I—ABUSE OF THE PARDON POWER PREVENTION**

- Sec. ~~10~~ Short title.  
 Sec. ~~10~~ Congressional oversight relating to certain pardons.  
 Sec. ~~10~~ Bribery in connection with pardons and commutations.  
 Sec. ~~10~~ Prohibition on presidential self-pardon.

**TITLE II—ENSURING NO PRESIDENT IS ABOVE THE LAW**

- Sec. ~~20~~ Short title.  
 Sec. ~~20~~ Rolling of statute of limitations.

**TITLE III—ENFORCEMENT OF THE FOREIGN AND DOMESTIC  
 EMOLUMENTS CLAUSES OF THE CONSTITUTION**

- Sec. ~~30~~ Short title.  
 Sec. ~~30~~ Definitions.  
 Sec. ~~30~~ Prohibition on acceptance of foreign and domestic emoluments.  
 Sec. ~~30~~ Civil actions by Congress concerning foreign emoluments.  
 Sec. ~~30~~ Disclosures concerning foreign and domestic emoluments.  
 Sec. ~~30~~ Enforcement authority of the Director of the Office of Government Ethics.  
 Sec. ~~30~~ Jurisdiction of the Office of Special Counsel.

**DIVISION B—RESTORING CHECKS AND BALANCES, ACCOUNTABILITY,  
 AND TRANSPARENCY**

**TITLE IV—ENFORCEMENT OF CONGRESSIONAL SUBPOENAS**

- Sec. ~~40~~ Short title.  
 Sec. ~~40~~ Findings.  
 Sec. ~~40~~ Enforcement of congressional subpoenas.  
 Sec. ~~40~~ Compliance with congressional subpoenas.  
 Sec. ~~40~~ Rule of construction.

**TITLE V—REASSERTING CONGRESSIONAL POWER OF THE PURSE**

- Sec. ~~50~~ Short title.

**Subtitle A—Strengthening Congressional Control and Review To Prevent  
 Impoundment**

- Sec. ~~50~~ Strengthening congressional control.  
 Sec. ~~50~~ Strengthening congressional review.  
 Sec. ~~50~~ Updated authorities for and reporting by the Comptroller General.  
 Sec. ~~50~~ Advance congressional notification and litigation.  
 Sec. ~~50~~ Penalties for failure to comply with the Impoundment Control Act of 1974.

**Subtitle B—Strengthening Transparency and Reporting**

**PART 1—FUNDS MANAGEMENT AND REPORTING TO THE CONGRESS**

- Sec. ~~51~~ Expired balance reporting in the President's budget.

- Sec. 51 ~~C~~ancelled balance reporting in the President's budget.  
 Sec. 51 ~~B~~apise in appropriations—Reporting in the President's budget.  
 Sec. 51 ~~H~~transfer and other repurposing authority reporting in the President's budget.  
 Sec. 51 ~~A~~uthorizing cancellations in indefinite accounts by appropriation.

**PART 2—EMPOWERING CONGRESSIONAL REVIEW THROUGH  
 NONPARTISAN CONGRESSIONAL AGENCIES AND TRANSPARENCY  
 INITIATIVES**

- Sec. 52 ~~R~~epirement to respond to requests for information from the ~~Government~~  
~~Accountability Office~~ Comptroller General for budget and appropriations law  
 decisions.  
 Sec. 52 ~~R~~eporting requirements for Antideficiency Act violations.  
 Sec. 52 ~~D~~epartment of Justice reporting to Congress for Antideficiency Act violations.  
 Sec. 52 ~~P~~ublication of budget or appropriations law opinions of the Department of Justice  
 Office of Legal Counsel.

**Subtitle C—Strengthening Congressional Role in and Oversight of Emergency  
 Declarations and Designations**

- Sec. 53 ~~I~~mproving checks and balances on the use of the National Emergencies Act.  
 Sec. 53 ~~N~~ational Emergencies Act declaration spending reporting in the President's budget.  
 Sec. 53 ~~D~~isclosure to Congress of presidential emergency action documents.  
 Sec. 53 ~~E~~mergency and overseas contingency operations designations by Congress in  
 statute Congressional Designations.

**TITLE VI—SECURITY FROM POLITICAL INTERFERENCE IN JUSTICE**

- Sec. 60 ~~S~~hort title.  
 Sec. 60 ~~D~~efinitions.  
 Sec. 60 ~~C~~ommunications logs.  
 Sec. 60 ~~R~~ule of construction.

**TITLE VII—PROTECTING INSPECTOR GENERAL INDEPENDENCE**

**Subtitle A—Requiring Cause for Removal**

- Sec. 70 ~~S~~hort title.  
 Sec. 70 ~~A~~mendment.  
 Sec. 70 ~~R~~emoval or transfer requirements.

**Subtitle B—Inspectors General of Intelligence Community**

- Sec. 71 ~~I~~ndependence of Inspectors General of the Intelligence Community.  
 Sec. 71 ~~A~~uthority of Inspectors General of the Intelligence Community to determine matters  
 of urgent concern.  
 Sec. 71 ~~C~~onforming amendments and coordination with other provisions of law.

**Subtitle C—Congressional Notification**

- Sec. 72 ~~S~~hort title.  
 Sec. 72 ~~C~~hange in status of Inspector General offices.  
 Sec. 72 ~~R~~esidential explanation of failure to nominate an Inspector General.

**TITLE VIII—PROTECTING WHISTLEBLOWERS**

### **Subtitle A—Whistleblower Protection Improvement**

- Sec. 80~~0~~ Short title.
- Sec. 80~~1~~ Additional whistleblower protections.
- Sec. 80~~2~~ Enhancement of whistleblower protections.
- Sec. 80~~3~~ Classifying certain furloughs as adverse personnel actions.
- Sec. 80~~4~~ Codification of protections for disclosures of censorship related to research, analysis, or technical information.
- Sec. 80~~5~~ Title 5 technical and conforming amendments.

### **Subtitle B—Whistleblowers of the Intelligence Community**

- Sec. 81~~1~~ Limitation on sharing of intelligence community whistleblower complaints with persons named in such complaints.
- Sec. 81~~2~~ Disclosures to Congress.
- Sec. 81~~3~~ Prohibition against disclosure of whistleblower identity as reprisal against whistleblower disclosure by employees and contractors in intelligence community.

### **TITLE IX—ACCOUNTABILITY FOR ACTING OFFICIALS**

- Sec. 90~~0~~ Short title.
- Sec. 90~~1~~ Clarification of Federal Vacancies Reform Act of 1998.

### **TITLE X—STRENGTHENING HATCH ACT ENFORCEMENT AND PENALTIES**

- Sec. 100~~0~~ Short title.
- Sec. 100~~1~~ Strengthening Hatch Act enforcement and penalties against political appointees.

### **TITLE XI—PROMOTING EFFICIENT PRESIDENTIAL TRANSITIONS**

- Sec. 110~~0~~ Short title.
- Sec. 110~~1~~ Ascertainment of successful candidates in general elections for purposes of presidential transition.

### **TITLE XII—PRESIDENTIAL AND VICE PRESIDENTIAL TAX TRANSPARENCY**

- Sec. 120~~0~~ Presidential and Vice Presidential tax transparency.

### **DIVISION C—DEFENDING ELECTIONS AGAINST FOREIGN INTERFERENCE**

#### **TITLE XIII—REPORTING FOREIGN INTERFERENCE IN ELECTIONS**

- Sec. 130~~0~~ Federal campaign reporting of foreign contacts.
- Sec. 130~~1~~ Federal campaign foreign contact reporting compliance system.
- Sec. 130~~2~~ Criminal penalties.
- Sec. 130~~3~~ Report to congressional intelligence committees.
- Sec. 130~~4~~ Rule of construction.

#### **TITLE XIV—ELIMINATING FOREIGN INTERFERENCE IN ELECTIONS**

- Sec. 140~~0~~ Clarification of application of foreign money ban.
- Sec. 140~~1~~ Requiring acknowledgment of foreign money ban by political committees.

*Sec. 1403.*

*Prohibition on contributions and donations by foreign nationals in connections with ballot*

*initiatives and referenda.*

**DIVISION D—SEVERABILITY**  
**TITLE XV—SEVERABILITY**

Sec. 1508 Severability.

**DIVISION A—PREVENTING ABUSES OF PRESIDENTIAL POWER**

**TITLE I—ABUSE OF THE PARDON  
POWER PREVENTION**

**SEC. 101. Short title.**

This title may be cited as the “Abuse of the Pardon Power Prevention Act”.

**SEC. 102. Congressional oversight relating to certain pardons.**

(a) SUBMISSION OF INFORMATION.—In the event that the President grants an individual a pardon for a covered offense, not later than 30 days after the date of such pardon the Attorney General shall submit to the chairmen and ranking minority members of the appropriate congressional committees—

(1) all materials obtained or produced by the prosecution team, including the Attorney General and any United States Attorney, and all materials obtained or prepared by any investigative agency of the United States ~~Government~~*government*, relating to the offense for which the individual was so pardoned; and

(2) all materials obtained or produced by the Department of Justice in relation to the pardon.

(b) TREATMENT OF INFORMATION.—Rule 6(e) of the Federal Rules of Criminal Procedure may not be construed to prohibit the disclosure of information required by subsection (a) of this section.

(c) DEFINITIONS.—In this section:

(1) The term “appropriate congressional committees” means—

(A) the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate; and

(B) if an investigation relates to intelligence or counterintelligence matters, the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(2) The term “covered offense” means—

(A) an offense against the United States that arises from an investigation in which the President, or a relative of the President, is a target or subject;

(B) an offense under section 192 of title 2, United States Code; or

(C) an offense under section 1001, 1505, 1512, or 1621 of title 18, United States Code, provided that the offense occurred in relation to a Congressional proceeding or investigation.

(3) The term “pardon” includes a commutation of sentence.

(4) The term “relative” has the meaning given that term in section 3110(a) of title 5, United States Code.

**SEC. 103. Bribery in connection with pardons and commutations.**

Section 201 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting “, including the President and the Vice President of the United States,” after “or an officer or employee or person”; and

(B) in paragraph (3), by inserting before the period at the end the following: “, including any pardon, commutation, or reprieve, or an offer of any such pardon, commutation, or reprieve”; and

(2) in subsection (b)(3), by inserting “(including, for purposes of this paragraph, any pardon, commutation, or reprieve, or an offer of any such pardon, commutation, or reprieve)” after “corruptly gives, offers, or promises anything of value”.

**SEC. 104. Prohibition on presidential self-pardon.**

The President’s grant of a pardon to himself or herself is void and of no effect, and shall not deprive the courts of jurisdiction, or operate to confer on the President any legal immunity from investigation or prosecution.

## **TITLE II—ENSURING NO PRESIDENT IS ABOVE THE LAW**

**SEC. 201. Short title.**

This title may be cited as the “No President is Above the Law Act”.

**SEC. 202. Tolling of statute of limitations.**

(a) OFFENSES COMMITTED BY THE PRESIDENT OR VICE PRESIDENT DURING OR PRIOR TO TENURE IN OFFICE.—Section 3282 of title 18, United States Code, is amended by adding at the end the following:

“(c) OFFENSES COMMITTED BY THE PRESIDENT OR VICE PRESIDENT DURING OR PRIOR TO TENURE IN OFFICE.—In the case of any person serving as President or Vice President of the United States, the duration of that person’s tenure in office shall not be considered for purposes of any statute of limitations applicable to any Federal criminal offense committed by that person (including any offenses committed during any period of time preceding such tenure in office).”

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to any offense committed before the date of the enactment of this section, if the statute of limitations applicable to that offense had not run as of such date.

*(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to preclude the indictment or prosecution of a President or Vice President, during that President or Vice President’s tenure in office, for violations of the criminal laws of the United States.*

# TITLE III—ENFORCEMENT OF THE FOREIGN AND DOMESTIC EMOLUMENTS CLAUSES OF THE CONSTITUTION

## **SEC. 301. Short title.**

This title may be cited as the “Foreign and Domestic Emoluments Enforcement Act”.

## **SEC. 302. Definitions.**

In this title:

(1) The term “emolument” means any profit, gain, or advantage that is received directly or indirectly from any government of a foreign country, the Federal ~~Government~~ government, or any State or local government, or from any instrumentality thereof, including payments arising from commercial transactions at fair market value.

(2) The term “person holding any office of profit or trust under the United States” includes the President of the United States and the Vice-President of the United States.

(3) The term “government of a foreign country” has the meaning given such term in section 1(e) of the Foreign Agents Registration Act (22 U.S.C. 611(e)).

## **SEC. 303. Prohibition on acceptance of foreign and domestic emoluments.**

(a) FOREIGN.—Except as otherwise provided in section 7342 of title 5, United States Code, it shall be unlawful for any person holding an office of profit or trust under the United States to accept from a government of a foreign country, without first obtaining the consent of Congress, any present or emolument, or any office or title. The prohibition under this subsection applies without regard to whether the present, emolument, office, or title is—

- (1) provided directly or indirectly by that government of a foreign country; or
- (2) provided to that person or to any private business interest of that person.

(b) DOMESTIC.—It shall be unlawful for the President to accept from the United States, or any of them, any emolument other than the compensation for his or her services as President provided for by Federal law. The prohibition under this subsection applies without regard to whether the emolument is provided directly or indirectly, and without regard to whether the emolument is provided to the President or to any private business interest of the President.

## **SEC. 304. Civil actions by Congress concerning foreign emoluments.**

(a) CAUSE OF ACTION.—The House of Representatives or the Senate may bring a civil action against any person for a violation of subsection (a) of section 303.

(b) SPECIAL RULES.—In any civil action described in subsection (a), the following rules shall apply:

- (1) The action shall be filed before the United States District Court for the District of Columbia.

(2) The action shall be heard by a three-judge court convened pursuant to section 2284 of title 28, United States Code. It shall be the duty of such court to advance on the docket and to expedite to the greatest possible extent the disposition of any such action. Such action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(3) It shall be the duty of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any such action and appeal.

(c) REMEDY.—If the court determines that a violation of subsection (a) of section 303 has occurred, the court shall issue an order enjoining the course of conduct found to constitute the violation, and such of the following as are appropriate:

(1) The disgorgement of the value of any foreign present or emolument.

(2) The surrender of the physical present or emolument to the Department of State, which shall, if practicable, dispose of the present or emolument and deposit the proceeds into the United States Treasury.

(3) The renunciation of any office or title accepted in violation of such subsection.

(4) A prohibition on the use or holding of such an office or title.

(5) Such other relief as the court determines appropriate.

(d) USE OF ~~GOVERNMENT~~ GOVERNMENT FUNDS PROHIBITED.—No appropriated funds, funds provided from any accounts in the United States Treasury, funds derived from the collection of fees, or any other Government funds shall be used to pay any disgorgement imposed by the court pursuant to this section.

### **SEC. 305. Disclosures concerning foreign and domestic emoluments.**

(a) DISCLOSURES.—Section 102(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

“(9) Any present, emolument, office, or title received from a government of a foreign country, including the source, date, type, and amount or value of each present or emolument accepted on or before the date of filing during the preceding calendar year.

“(10) Each business interest that is reasonably expected to result in the receipt of any present or emolument from a government of a foreign country during the current calendar year.

“(11) In addition, the President shall report—

“(A) any emolument received from the United States, or any of them, other than the compensation for his or her services as President provided for by Federal law; and

“(B) any business interest that is reasonably expected to result in the receipt of any emolument from the United States, or any of them.”

(b) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to affect the prohibition against the acceptance of presents and emoluments under



section 303.

**SEC. 306. Enforcement authority of the Director of the Office of Government Ethics.**

(a) GENERAL AUTHORITY.—Section 402(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

- (1) by striking “(a) The Director” and inserting “(a)(1) The Director”; and
- (2) by adding at the end the following new paragraph:

“(2) The Director shall provide overall direction of executive branch policies related to compliance with the Foreign and Domestic Emoluments Enforcement Act and the amendments made by such Act and shall have the authority to—

“(A) issue administrative fines to individuals for violations;

“(B) order individuals to take corrective action, including disgorgement, divestiture, and recusal, as the Director deems necessary; and

“(C) bring civil actions to enforce such fines and orders.”

(b) SPECIFIC AUTHORITIES.—Section 402(b) of such Act (5 U.S.C. App.) is amended—

- (1) by striking “and” at the end of paragraph (14);
- (2) by striking the period at the end of paragraph (15) and inserting “; and”; and
- (3) by adding at the end the following new paragraph:

“(16) developing and promulgating rules and regulations to ensure compliance with the Foreign and Domestic Emoluments Enforcement Act and the amendments made by such Act, including establishing—

“(A) requirements for reporting and disclosure;

“(B) a schedule of administrative fines that may be imposed by the Director for violations; and

“(C) a process for referral of matters to the Office of Special Counsel for investigation in compliance with section 1216(d) of title 5, United States Code.”

**SEC. 307. Jurisdiction of the Office of Special Counsel.**

Section 1216 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (4), by striking “and” at the end;

(B) in paragraph (5) by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(6) any violation of section 303 of the Foreign and Domestic Emoluments Enforcement Act or of the amendments made by section 305 of such Act.”

; and

(2) by adding at the end the following:

“(d) If the Director of the Office of Government Ethics refers a matter for investigation pursuant to section 402 of the Ethics in Government Act of 1978, or if the Special Counsel receives a credible complaint of a violation referred to in subsection (a)(6), the Special Counsel shall complete an investigation not later than 120 days thereafter. If the Special Counsel investigates any violation pursuant to subsection (a)(6), the Special Counsel shall report not later than 7 days after the completion of such investigation to the Director of the Office of Government Ethics and to Congress on the results of such investigation. ”

**DIVISION B—RESTORING CHECKS AND BALANCES, ACCOUNTABILITY,  
AND TRANSPARENCY**

**TITLE IV—ENFORCEMENT OF  
CONGRESSIONAL SUBPOENAS**

**SEC. 401. Short title.**

This title may be cited as the “Congressional Subpoena Compliance and Enforcement Act”.

**SEC. 402. Findings.**

The Congress finds as follows:

(1) As the Supreme Court has repeatedly affirmed, including in its July 9, 2020, holding in *Trump v. Mazars*, Congress’s “power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function”. Congress’s power to obtain information, including through the issuance of subpoenas and the enforcement of such subpoenas, is “broad and indispensable”.

(2) Congress “suffers a concrete and particularized injury when denied the opportunity to obtain information necessary” to the exercise of its constitutional functions, as the U.S. Court of Appeals for the District of Columbia Circuit correctly recognized in its August 7, 2020, en banc decision in *Committee on the Judiciary of the U.S. House of Representatives v. McGahn*.

(3) Accordingly, the Constitution secures to each House of Congress an inherent right to enforce its subpoenas in court. Explicit statutory authorization is not required to secure such a right of action, and the contrary holding by a divided panel of the U.S. Court of Appeals for the District of Columbia Circuit in *McGahn*, entered on August 31, 2020, was in error.

**SEC. 403. Enforcement of congressional subpoenas.**

(a) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by inserting after section 1365 the following:

**“§ 1365a. Congressional actions against subpoena recipients**

“(a) CAUSE OF ACTION.—The United States House of Representatives, the United States Senate, or a committee or subcommittee thereof, may bring a civil action against the recipient

of a subpoena issued by a congressional committee or subcommittee to enforce compliance with the subpoena.

“(b) SPECIAL RULES.—In any civil action described in subsection (a), the following rules shall apply:

“(1) The action may be filed in a United States district court of competent jurisdiction.

“(2) Notwithstanding section 1657(a), it shall be the duty of every court of the United States to expedite to the greatest possible extent the disposition of any such action and appeal. Upon a showing by the plaintiff of undue delay, other irreparable harm, or good cause, a court to which an appeal of the action may be taken shall issue any necessary and appropriate writs and orders to ensure compliance with this paragraph.

“(3) If a three-judge court is expressly requested by the plaintiff in the initial pleading, the action shall be heard by a three-judge court convened pursuant to section 2284, and shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

“(4) The initial pleading must be accompanied by certification that the party bringing the action has in good faith conferred or attempted to confer with the recipient of the subpoena to secure compliance with the subpoena without court action.

“(c) PENALTIES.—

“(1) CASES INVOLVING GOVERNMENT AGENCIES.—

“(A) IN GENERAL.—The court may impose monetary penalties directly against each head of a Government agency and the head of each component thereof held to have knowingly failed to comply with any part of a congressional subpoena, unless—

“(i) the President instructed the official not to comply; and

“(ii) the President, or the head of the agency or component thereof, submits to the court a letter confirming such instruction and the basis for such instruction.

“(B) PROHIBITION ON USE OF GOVERNMENT FUNDS.—No appropriated funds, funds provided from any accounts in the Treasury, funds derived from the collection of fees, or other Government funds shall be used to pay any monetary penalty imposed by the court pursuant to this paragraph.

“(2) LEGAL FEES.—In addition to any other penalties or sanctions, the court shall require that any defendant, other than a Government agency, held to have willfully failed to comply with any part of a congressional subpoena, pay a penalty in an amount equal to that party’s legal fees, including attorney’s fees, litigation expenses, and other costs. If such defendant is an officer or employee of a Government agency, such fees may be paid from funds appropriated to pay the salary of the defendant.

“(d) WAIVER.—Any ground for noncompliance asserted by the recipient of a congressional subpoena shall be deemed to have been waived as to any particular information withheld from production if the court finds that the recipient failed in a timely manner to

comply with the applicable requirements of section 105(b) of the Revised Statutes of the United States with respect to such information.

“(e) RULES OF PROCEDURE.—The Supreme Court and the Judicial Conference of the United States shall prescribe rules of procedure to ensure the expeditious treatment of actions described in subsection (a). Such rules shall be prescribed and submitted to the Congress pursuant to sections 2072, 2073, and 2074. This shall include procedures for expeditiously considering any assertion of constitutional or Federal statutory privilege made in connection with testimony by any recipient of a subpoena from a congressional committee or subcommittee. The Supreme Court shall transmit such rules to Congress within 6 months after the effective date of this section and then pursuant to section 2074 thereafter.

“(f) DEFINITION.—For purposes of this section, the term ‘Government agency’ means any office or entity described in section 105 and 106 of title 3, an executive department listed in section 101 of title 5, an independent establishment, commission, board, bureau, division, or office in the executive branch, or other agency or instrumentality of the Federal Government, including wholly or partly owned Government corporations.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 85 of title 28, United States Code, is amended by inserting after the item relating to section 1365 the following:

“1365 Congressional actions against subpoena recipients.”

#### **SEC. 404. Compliance with congressional subpoenas.**

(a) IN GENERAL.—Chapter 7 of title II of the Revised Statutes of the United States (2 U.S.C. 191 et seq.) is amended—

(1) by adding at the end the following:

##### **“SEC. 105. Response to congressional subpoenas.**

“(a) SUBPOENA BY CONGRESSIONAL COMMITTEE.—Any recipient of any subpoena from a congressional committee or subcommittee shall appear and testify, produce, or otherwise disclose information in a manner consistent with the subpoena and this section.

“(b) FAILURE ~~To~~<sup>TO</sup> PRODUCE INFORMATION.—

“(1) GROUNDS FOR WITHHOLDING INFORMATION.—Unless required by the Constitution or by Federal statute, no claim of privilege or protection from disclosure shall be a ground for withholding information responsive to the subpoena or required by this section.

“(2) IDENTIFICATION OF INFORMATION WITHHELD.—In the case of information that is withheld, in whole or in part, by the subpoena recipient, the subpoena recipient shall, without delay provide a log containing the following:

“(A) An express assertion and description of the ground asserted for withholding the information.

“(B) The type of information.

“(C) The general subject matter.

“(D) The date, author, and addressee.

“(E) The relationship of the author and addressee to each other.

“(F) The custodian of the information.

“(G) Any other descriptive information that may be produced or disclosed regarding the information that will enable the congressional committee or subcommittee issuing the subpoena to assess the ground asserted for withholding the information.

“(c) DEFINITION.—For purposes of this section the term ‘information’ includes any books, papers, documents, data, or other objects requested in a subpoena issued by a congressional committee or subcommittee.”

(b) CLERICAL AMENDMENT.—The table of contents for chapter 7 of title II of the Revised Statutes of the United States is amended by adding at the end the following:

“105. Response to congressional subpoenas.”

**SEC. 405. Rule of construction.**

Nothing in this title may be interpreted to limit or constrain Congress’ inherent authority or foreclose any other means for enforcing compliance with congressional subpoenas, nor may anything in this title be interpreted to establish or recognize any ground for noncompliance with a congressional subpoena.

## TITLE V—REASSERTING CONGRESSIONAL POWER OF THE PURSE

**SEC. 500. Short title.**

This title may be cited as the “Congressional Power of the Purse Act”.

### Subtitle A—Strengthening Congressional Control and Review To Prevent Impoundment

**SEC. 501. Strengthening congressional control.**

(a) IN GENERAL.—The Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by adding at the end the following:

**“Sec. 1018. Prudent obligation of budget authority and specific requirements for expiring budget authority.—**

(a) SPECIAL MESSAGE REQUIREMENT.—With respect to budget authority proposed to be rescinded or that is set to be reserved or proposed to be deferred in a special message transmitted under section 1012 or 1013, such budget authority—

“(1) shall be made available for obligation in sufficient time to be prudently obligated as required under section 1012(b) or 1013; and

“(2) may not be deferred or otherwise withheld from obligation during the 90-day period before the expiration of the period of availability of such budget authority, including, if applicable, the 90-day period before the expiration of an initial period of availability for which such budget authority was provided.

“(b) ADMINISTRATIVE REQUIREMENT.—With respect to an apportionment of an appropriation (as that term is defined in section 1511 of title 31, United States Code) made pursuant to section 1512 of such title, an appropriation shall be apportioned—

“(1) to make available all amounts for obligation in sufficient time to be prudently obligated; and

“(2) to make available all amounts for obligation, without precondition ~~or limitation~~ (including footnotes) that shall be met prior to obligation, not later than 90 days before the expiration of the period of availability of such appropriation, including, if applicable, 90 days before the expiration of an initial period of availability for which such appropriation was provided.”

(b) CLERICAL AMENDMENT.—The table of contents of the Congressional Budget and Impoundment Control Act of 1974 set forth in section 1(b) of such Act is amended by adding after the item relating to section 1017 the following:

“1018 Prudent obligation of budget authority and specific requirements for expiring budget authority.”

## **SEC. 502. Strengthening congressional review.**

(a) IN GENERAL.—The Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.), as amended by section 501(a), is further amended by adding at the end the following:

### **“Sec. 1019. Reporting.—**

(a) APPORTIONMENT OF APPROPRIATIONS.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Office of Management and Budget shall complete implementation of an automated system to post each document apportioning an appropriation, pursuant to section 1513(b) of title 31, United States Code, including any associated footnotes, in a format that qualifies each such document as an Open Government Data Asset (as defined in section 3502 of title 44, United States Code), not later than 2 business days after the date of approval of such apportionment, and shall place on such website each document apportioning an appropriation, pursuant to such section 1513(b), including any associated footnotes, already approved for the fiscal year, and shall report the date of completion of such requirements to the Committees on the Budget and Appropriations of the House of Representatives and Senate.

“(2) EXPLANATORY STATEMENT.—Each document apportioning an appropriation posted on a publicly accessible website under paragraph (1) shall also include a written explanation by the official approving each such apportionment (pursuant to section

1513(b) of title 31, United States Code) of the rationale for the apportionment schedule and for any footnotes *for apportioned amounts*.

“(3) SPECIAL PROCESS FOR TRANSMITTING CLASSIFIED DOCUMENTATION TO THE ~~CONGRESS~~ *CONGRESS*.—The Office of Management and Budget or the applicable department or agency shall make available classified documentation ~~relating to apportionment to~~ *referenced in any apportionment at the request of the chair or ranking member of any* appropriate congressional ~~committees~~ *committee* ~~on a schedule to be determined by each such committee~~ *or subcommittee*.

“(4) DEPARTMENT AND AGENCY REPORT.—Each department or agency shall notify the Committees on the Budget and Appropriations of the House of Representatives and the Senate and any other appropriate congressional committees if—

“(A) an apportionment is not made in the required time period provided in section 1513(b) of title 31, United States Code;

“(B) an approved apportionment received by the department or agency conditions the availability of an appropriation on further action; or

“(C) an approved apportionment received by the department or agency may hinder the prudent obligation of such appropriation or the execution of a program, project, or activity by such department or ~~agency~~ *agency*;

and such notification shall contain information identifying the bureau, account name, appropriation name, and Treasury Appropriation Fund Symbol or fund account.

“(b) APPROVING OFFICIALS.—

“(1) DELEGATION OF AUTHORITY.—Not later than 15 days after the date of enactment of this section, any delegation of apportionment authority pursuant to section 1513(b) of title 31, United States Code that is in effect as of such date shall be submitted for publication in the Federal Register. Any delegation of such apportionment authority after the date of enactment of this section shall, on the date of such delegation, be submitted for publication in the Federal Register. The Office of Management and Budget shall publish such delegations in a format that qualifies such publications as an Open Government Data Asset (as defined in section 3502 of title 44, United States Code) on a public internet website, which shall be continuously updated with the position of each Federal officer or employee to whom apportionment authority has been delegated.

“(2) REPORT TO CONGRESS.—Not later than 5 days after any change in the position of the approving official with respect to such delegated apportionment authority for any account is made, the Office shall submit a report to the ~~Congress~~ *Committees on Appropriations of the House of Representatives and the Senate, the Committees on the Budget of the House of Representatives and the Senate, and any other appropriate congressional committee* explaining why such change was made.”

(b) CLERICAL AMENDMENT.—The table of contents of the Congressional Budget and Impoundment Control Act of 1974 set forth in section 1(b) of such Act, as amended by section 501(b), is further amended by adding after the item relating to section 1018 the following:

“1019Reporting.”

**SEC. 503. Updated authorities for and reporting by the Comptroller General.**

(a) Section 1015 of the Impoundment Control Act of 1974 (2 U.S.C. 686) is amended—

(1) in subsection (a), in the matter following paragraph (2), by striking the last sentence; and

(2) by adding at the end the following:

“(c) REVIEW.—

“(1) IN GENERAL.—The Comptroller General shall review compliance with this part and shall submit to the Committees on the Budget, Appropriations, and Oversight and Reform of the House of Representatives, the Committees on the Budget, Appropriations, and Homeland Security and Governmental Affairs of the Senate, and any other appropriate congressional committee of the House of Representatives and Senate a report, and any relevant information related to the report, on any noncompliance with this part.

“(2) INFORMATION, DOCUMENTATION, AND VIEWS.—The President or the head of the relevant department or agency of the United States shall provide information, documentation, and views to the Comptroller General, as is determined by the Comptroller General to be necessary to determine such compliance, not later than 20 days after the date on which the request from the Comptroller General is received, or if the Comptroller General determines that a shorter or longer period is appropriate based on the specific circumstances, within such shorter or longer period.

“(3) ACCESS.—To carry out the responsibilities of this part, the Comptroller General shall also have access to interview the officers, employees, contractors, and other agents and representatives of a department, agency, or office of the United States at any reasonable time as the Comptroller General may request.”

(b) Section 1001 of the Impoundment Control Act of 1974 (2 U.S.C. 681) is amended—

(1) in paragraph (3), by striking the “or” at the end of the paragraph;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(5) affecting or limiting in any way the authorities provided to the Comptroller General under chapter 7 of title 31, United States Code.”

**SEC. 504. Advance congressional notification and litigation.**

Section 1016 of the Impoundment Control Act of 1974 (2 U.S.C. 687) is amended to read as follows:

**“Sec. 1016. Suits by Comptroller General.—**

If, under this chapter, budget authority is required to be made available for obligation and



such budget authority is not made available for obligation or information, documentation, views, or access are required to be produced and such information, documentation, views, or access are not produced, the Comptroller General is expressly empowered, through attorneys of ~~their~~*the Comptroller General's* own selection, to bring a civil action in the United States District Court for the District of Columbia to require such budget authority to be made available for obligation or such information, documentation, views, or access to be produced, and such court is expressly empowered to enter in such civil action, against any department, agency, officer, or employee of the United States, any decree, judgment, or order which may be necessary or appropriate to make such budget authority available for obligation or compel production of such information, documentation, views, or access. No civil action shall be brought by the Comptroller General to require budget authority be made available under this section until the expiration of 15 calendar days following the date on which an explanatory statement by the Comptroller General of the circumstances giving rise to the action contemplated is filed with the Speaker of the House of Representatives and the President of the Senate, except that expiration of such period shall not be required if the Comptroller General finds (and incorporates the finding in the explanatory statement filed) that the delay would be contrary to the public interest.”

**SEC. 505. Penalties for failure to comply with the Impoundment Control Act of 1974.**

(a) IN GENERAL.—The Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.), as amended by section 502(a), is further amended by adding at the end the following:

**“Sec. 1020. Penalties for ~~Failure~~*failure* ~~To~~ ~~Comply~~*comply*.**—

(a) ADMINISTRATIVE DISCIPLINE.—An officer or employee of the Executive Branch of the United States Government violating this part shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office.

**“(b) REPORTING VIOLATIONS.**—

“(1) IN GENERAL.—In the event of a violation of section 1001, 1012, 1013, or 1018 of this part, or in the case that the ~~Government Accountability Office~~*Comptroller General* issues a legal decision concluding that a department, agency, or office of the United States violated this part, the President or the head of the relevant department or agency as the case may be, shall report immediately to Congress all relevant facts and a statement of actions taken. A copy of each report shall also be transmitted to the Comptroller General and the relevant inspector general on the same date the report is transmitted to the Congress.

“(2) CONTENTS.—Any such report shall include a summary of the facts pertaining to the violation, the title and Treasury Appropriation Fund Symbol of the appropriation or fund account, the amount involved for each violation, the date on which the violation occurred, the position of any individuals responsible for the violation, a statement of the administrative discipline imposed and any further action taken with respect to any officer or employee involved in the violation, ~~and~~ a statement of any additional action taken to prevent recurrence of the same type of ~~violation. In the case that the Government Accountability Office~~*violation, and any written response by any officer or employee identified by position as involved in the violation. In the case that the Comptroller General* issues a legal decision concluding that a department, agency, or

office of the United States violated this part and the relevant department, agency, or office does not agree that a violation has occurred, the report provided to Congress, the Comptroller General, and relevant inspector general will explain its position.

~~“(3) OPPORTUNITY TO RESPOND.—If the report identifies the position of any officer or employee as involved in the violation, such officer or employee shall be provided a reasonable opportunity to respond in writing, and any such response shall be appended to the report.~~

”

(b) CLERICAL AMENDMENT.—The table of contents of the Congressional Budget and Impoundment Control Act of 1974 set forth in section 1(b) of such Act, as amended by section 502(b), is further amended by adding after the item relating to section 1019 the following:

“1020Penalties for failure to comply.”

## **Subtitle B—Strengthening Transparency and Reporting**

### **Part 1—Funds Management and Reporting to the Congress**

#### **SEC. 511. Expired balance reporting in the President’s budget.**

Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

“(40) for the budgets for each of fiscal years 2023 through 2027, a report on—

“(A) unobligated expired balances as of the beginning of the current fiscal year and the beginning of each of the preceding 2 fiscal years by agency and the applicable Treasury Appropriation Fund Symbol or fund account; and

“(B) an explanation of *unobligated* expired balances in any Treasury Appropriation Fund Symbol or fund account that exceed the lesser of 5 percent of total appropriations made available for that account or \$100,000,000.”

#### **SEC. 512. Cancelled balance reporting in the President’s budget.**

Section 1105(a) of title 31, United States Code, as amended by section 511, is further amended by adding at the end the following:

“(41) for the budgets for each of fiscal years 2023 through 2027, a report on—

“(A) cancelled balances (pursuant to section 1552(a)) for the preceding 3 fiscal years by agency and Treasury Appropriation Fund Symbol or fund account;

“(B) an explanation of cancelled balances in any Treasury Appropriation Fund Symbol or fund account that exceed the lesser of 5 percent of total appropriations made available for that account or \$100,000,000; and

“(C) a tabulation, by Treasury Appropriation Fund Symbol or fund account

and appropriation, of all balances of appropriations available for an indefinite period in an appropriation account available for an indefinite period that do not meet the criteria for closure under section 1555, but for which either—

“(i) the head of the agency concerned or the President has determined that the purposes for which the appropriation was made have been carried out; or

“(ii) no disbursement has been made against the appropriation—

“(I) in the prior year and the preceding fiscal year; or

“(II) in the prior year and which the budget estimates zero disbursements in the current year.”

**SEC. 513. Lapse in appropriations—Reporting in the President’s budget.**

Section 1105(a) of title 31, United States Code, as amended by section 512, is further amended by adding at the end the following:

“(42) a report on—

“(A) any obligation or expenditure made by a department or agency affected in whole or in part by any lapse in appropriations of 5 consecutive days or more during the preceding fiscal year *for which amounts were not available*; and

“(B)

(i)

with respect to any such obligation or ~~expenditure~~, *expenditure*—

“(i) the amount so obligated or ~~expended~~, *expended*;

“(ii) the account ~~affected, and~~ *affected*;

“(iii) an explanation of ~~which~~ *the* Antideficiency Act ~~exceptions~~ *exception or other legal authority that* permitted the department or agency, as the case may be, to incur such obligation or expenditure; and

“(iv) an explanation of any ~~changes~~ *change* in the application of any Antideficiency Act exception for a program, project, or activity from any explanations previously reported on pursuant to this paragraph.”

**SEC. 514. Transfer and other repurposing authority reporting in the President’s budget.**

Section 1105(a) of title 31, United States Code, as amended by section 513, is further amended by adding at the end the following:

“(43) for the budget for fiscal year 2023, a report on—

“(A) any transfer authority or other authority to repurpose appropriations provided in a law other than an appropriation act; and

“(B) with respect to any such authority, the citation to the statute, the list of departments or agencies covered, an explanation of when such authority may be used, and an explanation on any use of such authority in the preceding 3 fiscal years.”

**SEC. 515. Authorizing cancellations in indefinite accounts by appropriation.**

(a) IN GENERAL.—Subchapter IV of chapter 15 of title 31, United States Code, is amended by inserting after section 1555 the following:

**“SEC. 1555a. Cancellation of appropriations available for indefinite periods within an account.**

Any remaining balance (whether obligated or unobligated) from an appropriation available for an indefinite period in an appropriation account available for an indefinite period that does not meet the requirements for closure under section 1555 shall be canceled, and thereafter shall not be available for obligation or expenditure for any purpose, if—

“(1) the head of the agency concerned or the President determines that the purposes for which the appropriation was made have been carried out; and

“(2) no disbursement has been made against the appropriation for two consecutive fiscal years.”

(b) CLERICAL AMENDMENT.—The table of sections for subchapter IV of chapter 15 of title 31, United States Code, is amended by inserting after the item relating to section 1555 the following:

“1555a. Cancellation of appropriations available for indefinite periods within an account.”

Part 2—Empowering Congressional Review through Nonpartisan  
Congressional Agencies and Transparency Initiatives

**SEC. 521. Requirement to respond to requests for information from the ~~Government Accountability Office~~ Comptroller General for budget and appropriations law decisions.**

(a) IN GENERAL.—Subchapter II of chapter 7 of title 31, United States Code, is amended by adding at the end the following:

**“SEC. 722. Requirement to respond to requests for information from the ~~Government Accountability Office~~ Comptroller General for budget and appropriations law decisions.**

“(a) If an executive agency or the District of Columbia government receives a written request for information, documentation, or views from the ~~Government Accountability Office~~ Comptroller General relating to a decision or opinion on budget or appropriations law, the executive agency or the District of Columbia government shall provide the requested information, documentation, or views not later than 20 days after receiving the written request, unless such written request specifically provides otherwise.

“(b) If an executive agency or the District of Columbia government fails to ~~respond to~~ provide the ~~request for~~ requested information, documentation, or views within the time required by this section—

“(1) the Comptroller General shall notify, in writing, the Committee on Oversight and Reform of the House of Representatives, Committee on Homeland Security and

Governmental Affairs of the Senate, and any other appropriate congressional committee of ~~the House of Representatives and the Senate of~~ such failure; and

“(2) the Comptroller General is hereby expressly empowered, through attorneys of ~~their~~ *the Comptroller General’s* own selection, to bring a civil action in the United States District Court for the District of Columbia to require such information, documentation, or views to be produced, and such court is expressly empowered to enter in such civil action, against any department, agency, officer, or employee of the United States, any decree, judgment, or order which may be necessary or appropriate to require such production.

“(c) Nothing in this section shall be construed as affecting or otherwise limiting the authorities provided to the Comptroller General in section 716 of this title.”

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 7 of title 31, United States Code, is amended by inserting after the item relating to section 721 the following:

“722. Requirement to respond to requests for information from the ~~Government Accountability Office~~ *Comptroller General* for budget and appropriations law decisions.”

## **SEC. 522. Reporting requirements for ~~An Antideficiency~~ Act violations.**

(a) VIOLATIONS OF ~~SECTION~~ *SECTION* 1341 OR 1342.—Section 1351 of title 31, United States Code, is amended—

(1) by striking “If” and inserting “(a) If the ~~Government Accountability Office~~ *Comptroller General*, an executive agency, or the District of Columbia government determines that”;

*(2) by striking “the Comptroller General” and inserting “the Comptroller General and the Attorney General”;* and

~~(2)~~ by adding at the end the following:

“(b) Any such report shall include *a statement of the provision violated*, a summary of the facts pertaining to the violation, the title and Treasury Appropriation Fund Symbol of the appropriation or fund account, the amount involved for each violation, the date on which the violation occurred, the position of any officer or employee responsible for the violation, a statement of the administrative discipline imposed and any further action taken with respect to any officer or employee involved in the violation, a statement of any additional action taken to prevent recurrence of the same type of violation, a statement of any determination that the violation was not knowing and willful that has been made by the executive agency or District of Columbia government, and any written response by any officer or employee identified by position as involved in the violation. In the case that the ~~Government Accountability Office~~ *Comptroller General* issues a legal decision concluding that section 1341(a) or 1342 was violated and the executive agency or District of Columbia government, as applicable, does not agree that a violation has occurred, the report provided to the President, the Congress, and the Comptroller General will explain its position.”

(b) VIOLATIONS OF ~~SECTION~~SECTION 1517.—Section 1517 of title 31, United States Code, is amended—

(1) in subsection (b), by striking “If” and inserting “If the ~~Government Accountability Office~~Comptroller General, an executive agency, or the District of Columbia government determines that”;

(2) by striking “the Comptroller General” and inserting “the Comptroller General and the Attorney General”; and

~~(2)~~ by adding at the end the following:

“(c) Any such report shall include a statement of the provision violated, a summary of the facts pertaining to the violation, the title and Treasury Appropriation Fund Symbol of the appropriation or fund account, the amount involved for each violation, the date on which the violation occurred, the position of any officer or employee responsible for the violation, a statement of the administrative discipline imposed and any further action taken with respect to any officer or employee involved in the violation, a statement of any additional action taken to prevent recurrence of the same type of violation, a statement of any determination that the violation was not knowing and willful that has been made by the executive agency or District of Columbia government, and any written response by any officer or employee identified by position as involved in the violation. In the case that the ~~Government Accountability Office~~Comptroller General issues a legal decision concluding that subsection (a) was violated and the executive agency or District of Columbia government, as applicable, does not agree that a violation has occurred, the report provided to the President, the Congress, and the Comptroller General will explain its position.”

**SEC. 523. Department of Justice reporting to Congress for Antideficiency Act violations.**

(a) VIOLATIONS OF ~~SECTIONS~~SECTIONS 1341 OR 1342.—Section 1350 of title 31, United States Code, is amended—

(1) by striking “An officer” and inserting “(a) An officer”; and

(2) by adding at the end the following:

“(b)

(1) If an executive agency or the District of Columbia government reports, under section 1351, a violation of section 1341(a) or 1342, the Attorney General shall promptly review such report and investigate to the extent necessary to determine whether there are reasonable grounds to believe that the responsible officer or employee knowingly and willfully violated such section 1341(a) or 1342, as applicable. If the Attorney General determines that there are such reasonable grounds, the Attorney General diligently shall investigate a criminal violation under this section.

“(2) The Attorney General shall submit to Congress and the Comptroller General on or before March 31 of each calendar year an annual report detailing separately for each executive agency and the District of Columbia government—

“(A) the number of reports under section 1351 transmitted to the President during the preceding calendar year;

“(B) the number of reports reviewed in accordance with paragraph (1) during the preceding calendar year;

“(C) without identification of any individual officer or employee of the United States Government or of the District of Columbia government, a description of each investigation undertaken in accordance with paragraph (1) during the preceding calendar year and an explanation of the status of any such investigation; and

“(D) without identification of any individual officer or employee of the United States Government or of the District of Columbia government, an explanation of any update to the status of any review or investigation previously reported pursuant to this subsection.”

(b) VIOLATIONS OF ~~SECTION~~ SECTION 1517.—Section 1519 of title 31, United States Code, is amended—

(1) by striking “An officer” and inserting “(a) An officer”; and

(2) by adding at the end the following:

“(b)

(1) If an executive agency or the District of Columbia government reports, under section 1517(b), a violation of section 1517(a), the Attorney General shall promptly review such report and investigate to the extent necessary to determine whether there are reasonable grounds to believe that the responsible officer or employee knowingly and willfully violated such section 1517(a). If the Attorney General determines that there are such reasonable grounds, the Attorney General diligently shall investigate a criminal violation under this section.

“(2) The Attorney General shall submit to Congress and the Comptroller General on or before March 31 of each calendar year an annual report detailing separately for each executive agency and the District of Columbia government—

“(A) the number of reports under section 1517(b) transmitted to the President during the preceding calendar year;

“(B) the number of reports reviewed in accordance with paragraph (1) during the preceding calendar year;

“(C) without identification of any individual officer or employee of the United States Government or of the District of Columbia government, a description of each investigation undertaken in accordance with paragraph (1) during the preceding calendar year and an explanation of the status of any such investigation; and

“(D) without identification of any individual officer or employee of the United States Government or of the District of Columbia government, an explanation of any update to the status of any review or investigation previously reported pursuant to this subsection.”

**SEC. 524. Publication of budget or appropriations law opinions of the Department of Justice Office of Legal Counsel.**

(a) SCHEDULE OF PUBLICATION FOR FINAL OLC OPINIONS.—Each final opinion issued by the Office of Legal Counsel of the Department of Justice ~~relating to section 1301(a), 1341, 1342, 1501, 1502, 1512, 1513, 1515, 1517, or 3302(b) of title 31, United States Code, any provision of the Balanced Budget and Emergency Deficit Control Act of 1985, the Federal Credit Reform Act of 1990, the Impoundment Control Act of 1974, an appropriation Act, continuing resolution, or another provision of law providing or governing appropriations or budget authority~~ (*final OLC opinion*) shall be made available on its public website in a manner that is searchable, sortable, and downloadable in its entirety as soon as is practicable, but—

(1) not later than 30 days after the opinion is issued or updated if such action takes place on or after the date of enactment of this Act;

(2) not later than 1 year after the date of enactment of this Act for an opinion issued on or after January 20, 1993;

(3) not later than 2 years after the date of enactment of this Act for an opinion issued on or after January 20, 1981, and before or on January 19, 1993;

(4) not later than 3 years after the date of enactment of this Act for an opinion issued on or after January 20, 1969, and before or on January 19, 1981; and

(5) not later than 4 years after the date of enactment of this Act for all other opinions.

(b) EXCEPTIONS AND LIMITATION ON PUBLIC AVAILABILITY OF FINAL OLC OPINIONS.—

(1) IN GENERAL.—A final OLC opinion or part thereof may be withheld only to the extent—

(A) information contained in the opinion was—

(i) specifically authorized to be kept secret, under criteria established by an Executive order, in the interest of national defense or foreign policy;

(ii) properly classified, including all procedural and marking requirements, pursuant to such Executive order;

(iii) the Attorney General determines that the national defense or foreign policy interests protected outweigh the public's interest in access to the information; and

(iv) put through declassification review within the past two years;

(B) information contained in the opinion relates to the appointment of a specific individual not confirmed to Federal office;

(C) information contained in the opinion is specifically exempted from disclosure by statute (other than sections 552 and 552b of title 5, United States Code), if such statute—

(i) requires that the material be withheld in such a manner as to leave no discretion on the issue; or

(ii) establishes particular criteria for withholding or refers to particular types of material to be withheld;

(D) information in the opinion includes trade secrets and commercial or



financial information obtained from a person and privileged or confidential whose disclosure would likely cause substantial harm to the competitive position of the person from whom the information was obtained;

(E) the President, in his or her sole and nondelegable determination, formally and personally claims in writing that executive privilege prevents the release of the information and disclosure would cause specific identifiable harm to an interest protected by an exception or the disclosure is prohibited by law; or

(F) information in the opinion includes personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(2) DETERMINATION TO WITHHOLD.—Any determination under this subsection to withhold information contained in a final OLC opinion shall be made by the Attorney General or a designee of the Attorney General. The determination shall be—

(A) in writing;

(B) made available to the public within the same timeframe as is required of a formal OLC opinion;

(C) sufficiently detailed as to inform the public of what kind of information is being withheld and the reason therefore; and

(D) effective only for a period of 3 years, subject to review and reissuance, with each reissuance made available to the public.

(3) FINAL OPINIONS.—For final OLC opinions for which the text is withheld in full or in substantial part, a detailed unclassified summary of the opinion shall be made available to the public, in the same timeframe as required of the final OLC opinion, that conveys the essence of the opinion, including any interpretations of a statute, the Constitution, or other legal authority. A notation shall be included in any published list of *final* OLC opinions regarding the extent of the withholdings.

(4) NO LIMITATION ON FREEDOM OF INFORMATION.—Nothing in this subsection shall be construed as limiting the availability of information under section 552 of title 5, United States Code, or construed as an exemption under paragraph (3) of subsection (b) of such section.

(5) NO LIMITATION ON RELIEF.—A decision by the Attorney General to release or withhold information pursuant to this title shall not preclude any action or relief conferred by statutory or regulatory regime that empowers any person to request or demand the release of information.

(6) REASONABLY SEGREGABLE PORTIONS OF OPINIONS TO BE PUBLISHED.—Any reasonably segregable portion of an opinion shall be provided after withholding of the portions which are exempt under this section. The amount of information withheld, and the exemption under which the withholding is made, shall be indicated on the released portion of the opinion, unless including that indication would harm an interest protected by the exemption in this paragraph under which the withholding is made. If technically feasible, the amount of the information withheld, and the exemption under which the withholding is made, shall be indicated at the place in the opinion where such withholding is made.

(c) METHOD OF PUBLICATION.—The Attorney General shall publish each final OLC

opinion to the extent the law permits, including by publishing the opinions on a publicly accessible website that—

(1) with respect to each opinion—

(A) contains an electronic copy of the opinion, including any transmittal letter associated with the opinion, in an open format that is platform independent and that is available to the public without restrictions;

(B) provides the public the ability to retrieve an opinion, to the extent practicable, through searches based on—

(i) the title of the opinion;

(ii) the date of publication or revision; or

(iii) the full text of the opinion;

(C) identifies the time and date when the opinion was required to be published, and when the opinion was transmitted for publication; and

(D) provides a permanent means of accessing the opinion electronically;

(2) includes a means for bulk download of all final OLC opinions or a selection of opinions retrieved using a text-based search;

(3) provides free access to the opinions, and does not charge a fee, require registration, or impose any other limitation in exchange for access to the website; and

(4) is capable of being upgraded as necessary to carry out the purposes of this section.

(d) DEFINITIONS.—In this section:

(1) OLC OPINION.—The term “OLC opinion” means views on a matter of legal interpretation communicated by the Office of Legal Counsel of the Department of Justice to any other office or agency, or person in an office or agency, in the Executive Branch, including any office in the Department of Justice, the White House, or the Executive Office of the President, and rendered in accordance with sections 511–513 of title 28, United States Code. ~~Where the communication of the legal interpretation takes place verbally, a memorialization of that communication qualifies as an “OLC opinion”~~Code, and relating to—

*(A) subtitles II, III, V, or VI of title 31, United States Code;*

*(B) the Balanced Budget and Emergency Deficit Control Act of 1985;*

*(C) the Congressional Budget and Impoundment Control Act of 1974; or*

*(D) any appropriations Act, continuing resolution, or other provision of law providing or governing appropriations or budget authority.*

(2) FINAL ~~OLC~~OLC OPINION.—The term “final OLC opinion” means an OLC opinion that—

(A) the Attorney General, Assistant Attorney General for the Office of Legal Counsel, or a Deputy Assistant Attorney General for the Office of Legal Counsel, has determined is final; ~~(B) government officials or government contractors are relying on or have relied on;~~

(C) is or has been relied upon to formulate legal guidance; or

(D)

or

(B) is cited in another Office of Legal Counsel opinion.

## Subtitle C—Strengthening Congressional Role in and Oversight of Emergency Declarations and Designations

### SEC. 531. Improving checks and balances on the use of the National Emergencies Act.

(a) REQUIREMENTS RELATING TO DECLARATION AND RENEWAL OF NATIONAL EMERGENCIES.—Title II of the National Emergencies Act (50 U.S.C. 1621 et seq.) is amended by striking sections 201 and 202 and inserting the following:

#### “SEC. 201. Declarations of national emergencies.

“(a) AUTHORITY TO DECLARE NATIONAL EMERGENCIES.—With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such a national emergency by proclamation. Such proclamation shall immediately be transmitted to Congress and published in the Federal Register.

“(b) SPECIFICATION OF PROVISIONS OF LAW TO BE EXERCISED AND REPORTING.—No powers or authorities made available by statute for use during the period of a national emergency shall be exercised unless and until the President specifies the provisions of law under which the President proposes that the President or other officers will act in—

“(1) a proclamation declaring a national emergency under subsection (a); or

“(2) one or more Executive orders relating to the emergency published in the Federal Register and transmitted to Congress.

“(c) PROHIBITION ON SUBSEQUENT ACTIONS IF EMERGENCIES NOT APPROVED.—

“(1) SUBSEQUENT DECLARATIONS.—If a joint resolution of approval is not enacted under section 203 with respect to a national emergency before the expiration of the period described in section 202(a), or with respect to a national emergency proposed to be renewed under section 202(b), the President may not, during the remainder of the term of office of that President, declare a subsequent national emergency under subsection (a) with respect to the same circumstances.

“(2) EXERCISE OF AUTHORITIES.—If a joint resolution of approval is not enacted under section 203 with respect to a power or authority specified by the President under subsection (b) with respect to a national emergency, the President may not, during the remainder of the term of office of that President, exercise that power or authority with respect to that emergency.

“(d) EFFECT OF FUTURE LAWS.—No law enacted after the date of the enactment of the Congressional Power of the Purse Act shall supersede this title unless it does so in specific terms, referring to this title, and declaring that the new law supersedes the provisions of this title.

#### “SEC. 202. Effective periods of national emergencies.

“(a) TEMPORARY EFFECTIVE PERIODS.—

“(1) IN GENERAL.—Unless previously terminated pursuant to Presidential order or Act of Congress, a declaration of a national emergency shall remain in effect for 20

session days, in the case of the Senate, and 20 legislative days, in the case of the House, from the issuance of the proclamation under section 201(a) (not counting the day on which the proclamation was issued) and shall terminate when that period expires unless there is enacted into law a joint resolution of approval under section 203 with respect to the proclamation.

“(2) EXERCISE OF POWERS AND AUTHORITIES.—Unless the declaration of national emergency has been terminated pursuant to Presidential order or Act of Congress, any emergency power or authority made available under a provision of law specified pursuant to section 201(b) may be exercised pursuant to a declaration of a national emergency for 20 session days, in the case of the Senate, and 20 legislative days, in the case of the House, from the issuance of the proclamation or Executive order (not counting the day on which such proclamation or Executive order was issued). That power or authority may not be exercised after that period expires unless there is enacted into law a joint resolution of approval under section 203 approving—

“(A) the proclamation of the national emergency or the Executive order; and

“(B) the exercise of the power or authority specified by the President in such proclamation or Executive order.

“(b) RENEWAL OF NATIONAL EMERGENCIES.—A national emergency declared by the President under section 201(a) or previously renewed under this subsection, and not already terminated pursuant to subsection (a) or (c), shall terminate on the date that is one year after the President transmitted to Congress the proclamation declaring the emergency or the enactment of a previous renewal pursuant to this subsection, unless—

“(1) the President publishes in the Federal Register and transmits to Congress an Executive order renewing the emergency; and

“(2) there is enacted into law a joint resolution of approval renewing the emergency pursuant to section 203 before the termination of the emergency or previous renewal of the emergency.

“(c) TERMINATION OF NATIONAL EMERGENCIES.—

“(1) IN GENERAL.—Any national emergency declared by the President under section 201(a) shall terminate on the earliest of—

“(A) the date provided for in subsection (a);

“(B) the date provided for in subsection (b);

“(C) the date specified in an Act of Congress terminating the emergency; or

“(D) the date specified in a proclamation of the President terminating the emergency.

“(2) EFFECT OF TERMINATION.—Effective on the date of the termination of a national emergency under paragraph (1)—

“(A) any powers or authorities exercised by reason of the emergency shall cease to be exercised;

“(B) any amounts reprogrammed, ~~re~~repurposed, or transferred under any provision of law with respect to the emergency that remain unobligated on that date shall be returned and made available for the purpose for which such amounts were appropriated; and

“(C) any contracts entered into under any provision of law relating to the emergency shall be terminated.

**“SEC. 203. Review by Congress of national emergencies.**

“(a) JOINT RESOLUTION OF APPROVAL DEFINED.—In this section, the term ‘joint resolution of approval’ means a joint resolution that does not have a preamble and that contains only the following provisions after its resolving clause:

“(1) A provision approving one or more—

“(A) proclamations of national emergency made under section 201(a);

“(B) Executive orders issued under section 201(b)(2); or

“(C) Executive orders issued under section 202(b).

“(2) A provision approving a list of all or a portion of the provisions of law specified by the President under section 201(b) in the proclamations or Executive orders that are the subject of the joint resolution.

“(b) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS OF APPROVAL.—

“(1) INTRODUCTION.—After the President transmits to Congress a proclamation declaring a national emergency under section 201(a), or an Executive order specifying emergency powers or authorities under section 201(b)(2) or renewing a national emergency under section 202(b), a joint resolution of approval may be introduced in either House of Congress by any member of that House.

“(2) COMMITTEE REFERRAL IN THE ~~SENATE~~ SENATE.—In the Senate, a joint resolution of approval shall be referred to the appropriate committee.

“(3) CONSIDERATION IN ~~SENATE~~ SENATE.—In the Senate, the following shall apply:

“(A) COMMITTEE REFERRAL.—A joint resolution of approval shall be referred to the appropriate committee or committees.

“(B) REPORTING AND DISCHARGE.—If the committee to which a joint resolution of approval has been referred has not reported it at the end of 10 calendar days after its introduction, that committee shall be discharged from further consideration of the resolution and it shall be placed on the calendar.

“(C) PROCEEDING TO CONSIDERATION.—Notwithstanding Rule XXII of the Standing Rules of the Senate, when a committee to which a joint resolution of approval is referred has reported the resolution, or when that committee is discharged under subparagraph (B) from further consideration of the resolution, it is at any time thereafter in order to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against the motion to proceed to the consideration of the joint resolution) are waived. The motion to proceed shall be debatable for 4 hours evenly divided between proponents and opponents of the joint resolution of approval. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of a joint resolution of approval is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

“(D) FLOOR CONSIDERATION.—There shall be 10 hours of consideration on a joint resolution of approval, to be divided evenly between the proponents and

opponents of the joint resolution. Of that 10 hours, there shall be a total of 2 hours of debate on any debatable motions in connection with the joint resolution, to be divided evenly between the proponents and opponents of the joint resolution.

“(E) AMENDMENTS.—No amendments shall be in order with respect to a joint resolution of approval in the Senate.

“(F) MOTION TO RECONSIDER VOTE ON PASSAGE.—A motion to reconsider a vote on passage of a joint resolution of approval shall not be in order.

“(G) APPEALS.—Points of order and appeals from the decision of the Presiding Officer shall be decided without debate.

“(4) CONSIDERATION IN ~~HOUSE~~HOUSE OF ~~REPRESENTATIVES~~REPRESENTATIVES.—In the House of Representatives, the following shall apply:

“(A) REPORTING AND DISCHARGE.—If any committee to which a joint resolution of approval has been referred has not reported it to the House within seven legislative days after the date of referral such committee shall be discharged from further consideration of the joint resolution.

“(B)

(i) PROCEEDING TO CONSIDERATION.—Beginning on the third legislative day after each committee to which a joint resolution of approval has been referred reports it to the House or has been discharged from further consideration thereof, it shall be in order to move to proceed to consider the joint resolution of approval in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the joint resolution of approval. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

“(ii) MOTION.—A motion to proceed to the consideration of a joint resolution of approval of an Executive order described in subsection (a)(1) or a list described in subsection (a)(2) shall not be in order prior to the enactment of a joint resolution of approval of the proclamation described in subsection (a)(1) that is the subject of such Executive order or list.

“(C) CONSIDERATION.—The joint resolution of approval shall be considered as read. All points of order against the joint resolution of approval and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution of approval to final passage without intervening motion except two hours of debate equally divided and controlled by the sponsor of the joint resolution of approval (or a designee) and an opponent. A motion to reconsider the vote on passage of the joint resolution of approval shall not be in order.

“(5) COORDINATION WITH ACTION BY OTHER ~~HOUSE~~HOUSE.—

“(A) IN GENERAL.—If, before the passage by one House of a joint resolution of approval of that House, that House receives from the other House a joint resolution of approval with regard to the same proclamation or Executive order, then the following procedures shall apply:

“(i) The joint resolution of approval of the other House shall not be referred to a committee.

“(ii) With respect to a joint resolution of approval of the House receiving the joint resolution—

“(I) the procedure in that House shall be the same as if no joint resolution of approval had been received from the other House; but

“(II) the vote on passage shall be on the joint resolution of approval of the other House.

“(iii) Upon the failure of passage of the joint resolution of approval of the other House, the question shall immediately occur on passage of the joint resolution of approval of the receiving House.

“(B) TREATMENT OF LEGISLATION OF OTHER ~~HOUSE~~HOUSE.—If one House fails to introduce a joint resolution of approval under this section, the joint resolution of approval of the other House shall be entitled to expedited floor procedures under this section.

“(C) APPLICATION TO REVENUE MEASURES.—The provisions of this paragraph shall not apply in the House of Representatives to a joint resolution of approval which is a revenue measure.

“(6) TREATMENT OF VETO MESSAGE.—Debate on a veto message in the Senate under this section shall be 1 hour evenly divided between the majority and minority leaders or their designees.

“(c) RULE OF CONSTRUCTION.—The enactment of a joint resolution of approval under this section shall not be interpreted to serve as a grant or modification by Congress of statutory authority for the emergency powers of the President.

“(d) RULES OF THE ~~HOUSE~~HOUSE AND ~~SENATE~~SENATE.—This section is enacted by Congress—

“(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of joint resolutions described in this section, and supersedes other rules only to the extent that it is inconsistent with such other rules; and

“(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

**“SEC. 204. Exclusion of certain national emergencies invoking International Emergency Economic Powers Act.**

“(a) IN GENERAL.—In the case of a national emergency described in subsection (b), the provisions of the National Emergencies Act, as in effect on the day before the date of the enactment of the Congressional Power of the Purse Act, shall continue to apply on and after such date of enactment.

“(b) NATIONAL EMERGENCY DESCRIBED.—

“(1) IN GENERAL.—A national emergency described in this subsection is a national emergency pursuant to which the President proposes to exercise emergency powers or authorities made available under the International Emergency Economic Powers Act

(50 U.S.C. 1701 et seq.), supplemented as necessary by a provision of law specified in paragraph (2).

“(2) PROVISIONS OF LAW SPECIFIED.—The provisions of law specified in this paragraph are—

“(A) the United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.);

“(B) section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f));

or

“(C) any provision of law that authorizes the implementation, imposition, or enforcement of economic sanctions with respect to a foreign country.

“(c) EFFECT OF ADDITIONAL POWERS AND AUTHORITIES.—Subsection (a) shall not apply to a national emergency or the exercise of emergency powers and authorities pursuant to the national emergency if, in addition to the exercise of emergency powers and authorities described in subsection (b), the President proposes to exercise, pursuant to the national emergency, any emergency powers and authorities under any other provision of law.”

(b) REPORTING REQUIREMENTS.—Section 401 of the National Emergencies Act (50 U.S.C. 1641) is amended by adding at the end the following:

“(d) REPORT ON EMERGENCIES.—The President shall transmit to Congress, with any proclamation declaring a national emergency under section 201(a) or any Executive order specifying emergency powers or authorities under section 201(b)(2) or renewing a national emergency under section 202(b), a report, in writing, that includes the following:

“(1) A description of the circumstances necessitating the declaration of a national emergency, the renewal of such an emergency, or the use of a new emergency authority specified in the Executive order, as the case may be.

“(2) The estimated duration of the national emergency, or a statement that the duration of the national emergency cannot reasonably be estimated at the time of transmission of the report.

“(3) A summary of the actions the President or other officers intend to take, including any reprogramming or transfer of funds and any contracts anticipated to be entered into, and the statutory authorities the President and such officers expect to rely on in addressing the national emergency.

“(4) In the case of a renewal of a national emergency, a summary of the actions the President or other officers have taken in the preceding one-year period, including any reprogramming or transfer of funds, to address the emergency.

“(e) PROVISION OF INFORMATION TO ~~CONGRESS~~ CONGRESS.—The President shall provide to Congress such other information as Congress may request in connection with any national emergency in effect under title II.

“(f) PERIODIC REPORTS ON STATUS OF EMERGENCIES.—If the President declares a national emergency under section 201(a), the President shall, not less frequently than every 3 months for the duration of the emergency, report to Congress on the status of the emergency and the actions the President or other officers have taken and authorities the President and such officers have relied on in addressing the emergency.”



(c) EXCLUSION OF IMPOSITION OF DUTIES AND IMPORT QUOTAS FROM PRESIDENTIAL AUTHORITIES UNDER ~~INTERNATIONAL~~INTERNATIONAL ~~EMERGENCY~~EMERGENCY ~~ECONOMIC~~ECONOMIC ~~POWERS~~POWERS ~~ACT~~ACT.—Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c)

(1) The authority granted to the President by this section does not include the authority to impose duties or tariff-rate quotas or (subject to paragraph (2)) other quotas on articles entering the United States.

“(2) The limitation under paragraph (1) does not prohibit the President from excluding all articles imported from a country from entering the United States.”

(d) CONFORMING AMENDMENTS.—

(1) NATIONAL ~~EMERGENCIES~~EMERGENCIES ~~ACT~~ACT.—Title III of the National Emergencies Act (50 U.S.C. 1631) is repealed.

(2) INTERNATIONAL ~~EMERGENCY~~EMERGENCY ~~ECONOMIC~~ECONOMIC ~~POWERS~~POWERS ~~ACT~~ACT.—Section 207 of the International Emergency Economic Powers Act (50 U.S.C. 1706) is amended—

(A) in subsection (b), by striking “concurrent resolution” and inserting “joint resolution” each place it appears; and

(B) by adding at the end the following:

“(e) In this section, the term ‘National Emergencies Act’ means the National Emergencies Act, as in effect on the day before the date of the enactment of the Congressional Power of the Purse Act.”

(e) EFFECTIVE DATE; APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall take effect upon enactment and apply with respect to national emergencies declared under section 201 of the National Emergencies Act on or after that date.

(2) APPLICABILITY TO RENEWALS OF EXISTING EMERGENCIES.—When a national emergency declared under section 201 of the National Emergencies Act before the date of the enactment of the Congressional Power of the Purse Act would expire or be renewed under section 202(d) of that Act (as in effect on the day before such date of enactment), that national emergency shall be subject to the requirements for renewal under section 202(b) of that Act, as amended by subsection (a).

**SEC. 532. National Emergencies Act declaration spending reporting in the President’s budget.**

Section 1105(a) of title 31, United States Code, as amended by section 514, is further amended by adding at the end the following:

“(44)

(A) a report on the proposed, planned, and actual obligations and expenditures of funds (for the prior fiscal year, the current fiscal year, and the fiscal years for which the budget is submitted) attributable to the exercise of powers and authorities made available by statute for each national emergency declared by the President, currently active or in effect during the applicable fiscal years.

“(B) Obligations and expenditures contained in the report under subparagraph (A) shall be organized by Treasury Appropriation Fund Symbol or fund account and by program, project, and activity, and include—

“(i) a description of each such program, project, and activity;

“(ii) the authorities under which such funding actions are taken; and

“(iii) the purpose and progress of such obligations and expenditures toward addressing the applicable national emergency.

“(C) Such report shall include, with respect to any transfer, reprogramming, or repurposing of funds to address the applicable national emergency—

“(i) the amount of such transfer, reprogramming, or repurposing;

“(ii) the authority authorizing each such transfer, reprogramming, or repurposing; and

“(iii) a description of programs, projects, and activities affected by such transfer, reprogramming, or repurposing, including by a reduction in funding.”

**SEC. 533. Disclosure to Congress of presidential emergency action documents.**

(a) IN GENERAL.—Not later than 30 days after the conclusion of the process for approval, adoption, or revision of any presidential emergency action document, the President shall submit that document to the appropriate congressional committees.

(b) DOCUMENTS IN EXISTENCE BEFORE DATE OF ENACTMENT.—Not later than 15 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees all presidential emergency action documents in existence before such date of enactment.

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees”, with respect to a presidential emergency action document submitted under subsection (a) or (b), means—

(A) the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate;

(B) the Committee on Oversight and Reform, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(C) any other committee of the Senate or the House of Representatives with jurisdiction over the subject matter addressed in the presidential emergency action document.

(2) **PRESIDENTIAL EMERGENCY ACTION DOCUMENT.**—The term “presidential emergency action document” refers to—

(A) each of the approximately 56 documents described as presidential emergency action documents in the budget justification materials for the Office of Legal Counsel of the Department of Justice submitted to Congress in support of the budget of the President for fiscal year 2018; and

(B) any other pre-coordinated legal document in existence before, on, or after the date of the enactment of this Act, that—

(i) is designated as a presidential emergency action document; or

(ii) is designed to implement a presidential decision or transmit a presidential request when an emergency disrupts normal governmental or legislative processes.

**SEC. 534. ~~Emergency and overseas contingency operations designations by Congress in statute.~~**

~~Section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)) is amended—~~

~~(1) in clause (i), by striking “and the President subsequently so designates”; and~~

~~(2) in clause (ii), by striking “and the President subsequently so designates”.~~

**SEC. 534. Congressional Designations.**

(a) **REPEAL OF OVERSEAS CONTINGENCY OPERATIONS/GLOBAL WAR ON TERRORISM DESIGNATION.**—Section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)) is amended—

(1) in the subparagraph heading, by striking “; overseas contingency operations/global war on terrorism”; and

(2) by striking “that—” and all that follows through the period at the end and inserting the following: “that the Congress designates as emergency requirements in statute, the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the later of October 1, 2021 or the date of enactment of this Act.

## TITLE VI—SECURITY FROM POLITICAL INTERFERENCE IN JUSTICE

**SEC. 601. Short title.**

This title may be cited as the “Security from Political Interference in Justice Act of 2020”.

**SEC. 602. Definitions.**

In this title:

(1) COMMUNICATIONS LOG.—The term “communications log” means the log required to be maintained under section 603(a).

(2) COVERED COMMUNICATION.—

(A) IN GENERAL.—The term “covered communication” means any communication relating to any contemplated or ongoing investigation or litigation conducted by the Department of Justice in any civil or criminal matter (regardless of whether a civil action or criminal indictment or information has been filed); and

(B) EXCEPTIONS.—The term does not include a communication that is any of the following:

(i) A communication that involves contact between the President, the Vice President, the Counsel to the President, or the Principal Deputy Counsel to the President, and the Attorney General, the Deputy Attorney General, or the Associate Attorney General, except to the extent that the communication concerns a contemplated or ongoing investigation or litigation in which a target or subject is one of the following:

(I) The President, the Vice President, or a member of the immediate family of the President or Vice President.

(II) Any individual working in the Executive Office of the President who is compensated at a rate of pay at or above level II of the Executive Schedule under section 5313 of title 5, United States Code.

(III) The current or former chair or treasurer of any national campaign committee that sought the election or seeks the reelection of the President, or any officer of such a committee exercising authority at the national level, during the tenure in office of the President.

(ii) A communication that involves contact between an officer or employee of the Department of Justice and an officer or employee of the Executive Office of the President on a particular matter, if any of the President, the Vice President, the Counsel to the President, or the Principal Deputy Counsel to the President, and if any of the Attorney General, the Deputy Attorney General, or the Associate Attorney General have designated a subordinate to carry on such contact, and the person so designating monitors all subsequent communications and the person designated keeps the designating person informed of each such communication, except to the extent that the communication concerns a contemplated or ongoing investigation or litigation in which a target or subject is one of the following:

(I) The President, the Vice President, or a member of the immediate family of the President or Vice President.

(II) Any individual working in the Executive Office of the President who is compensated at a rate of pay at or above level II of the Executive Schedule under section 5313 of title 5, United States Code.

(III) The current or former chair or treasurer of any national campaign committee that sought the election or seeks the reelection of the President, or any officer of such a committee exercising authority at the national level, during the tenure in office of the President.

(iii) A communication that involves contact from or to the Deputy Counsel to the President for National Security Affairs, the staff of the National Security Council, and the staff of the Homeland Security Council that relates to a national security matter, except to the extent that the communication concerns a pending adversary case in litigation that may have national security implications.

(iv) A communication that involves contact between the Office of the Pardon Attorney of the Department of Justice and the Counsel to the President or the Deputy Counsels to the President relating to pardon matters.

(v) A communication that relates solely to policy, appointments, legislation, rulemaking, budgets, public relations or affairs, programmatic matters, intergovernmental relations, administrative or personnel matters, appellate litigation, or requests for legal advice.

(3) IMMEDIATE FAMILY.—The term “immediate family of the President or Vice President” means those persons to whom the President or Vice President—

(A) is related by blood, marriage, or adoption; or

(B) stands in loco parentis.

### **SEC. 603. Communications logs.**

(a) IN GENERAL.—The Attorney General shall maintain a log of covered communications.

(b) CONTENTS.—A communications log shall include, with respect to a covered communication—

(1) the name and title of each officer or employee of the Department of Justice or the Executive Office of the President who participated in the covered communication;

(2) the topic of the covered communication; and

(3) a statement describing the purpose and necessity of the covered communication.

(c) OVERSIGHT.—

(1) PERIODIC DISCLOSURE OF LOGS.—Not later than January 30 and July 30 of each year, the Attorney General shall submit to the Office of the Inspector General of the Department of Justice a report containing the communications log for the 6-month period preceding that January or July.

(2) NOTICE OF INAPPROPRIATE OR IMPROPER COMMUNICATIONS.—The Office of the Inspector General of the Department of Justice shall—

(A) review each communications log received under paragraph (1)(A); and

(B) notify the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate if the Inspector General determines that a covered communication described in the communications log—

(i) is inappropriate from a law enforcement perspective; or

(ii) raises concerns about improper political interference.

(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to limit the valid written assertion by the President of presidential communications privilege with regard

to any material required to be submitted under this section.

**SEC. 604. Rule of construction.**

Nothing in this title may be construed to affect any requirement to report pursuant to title I of this Act, or the amendments made by that title.

# TITLE VII—PROTECTING INSPECTOR GENERAL INDEPENDENCE

## Subtitle A—Requiring Cause for Removal

**SEC. 701. Short title.**

This subtitle may be cited as the “Inspector General Independence Act”.

**SEC. 702. Amendment.**

The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 3(b)—

(A) by striking “An Inspector General” and inserting “(1) An Inspector General”;

(B) by inserting after “by the President” the following: “in accordance with paragraph (2)”;

(C) by inserting at the end the following new paragraph:

“(2) The President may remove an Inspector General only for any of the following grounds (and the documentation of any such ground shall be included in the communication required pursuant to paragraph (1)):

“(A) Documented permanent incapacity.

“(B) Documented neglect of duty.

“(C) Documented malfeasance.

“(D) Documented conviction of a felony or conduct involving moral turpitude.

“(E) Documented knowing violation of a law or regulation.

“(F) Documented gross mismanagement.

“(G) Documented gross waste of funds.

“(H) Documented abuse of authority.

“(I) Documented inefficiency.”

; and

(2) in section 8G(e)(2), by adding at the end the following new sentence: “An Inspector General may be removed only for any of the following grounds (and the documentation of any such ground shall be included in the communication required

pursuant to this paragraph):

“(A) Documented permanent incapacity.

“(B) Documented neglect of duty.

“(C) Documented malfeasance.

“(D) Documented conviction of a felony or conduct involving moral turpitude.

“(E) Documented knowing violation of a law or regulation.

“(F) Documented gross mismanagement.

“(G) Documented gross waste of funds.

“(H) Documented abuse of authority.

“(I) Documented inefficiency.”

**SEC. 703. Removal or transfer requirements.**

(a) REASONS FOR REMOVAL OR TRANSFER.—Section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.), as amended by section 702, is further amended—

(1) in paragraph (1), by striking “reasons” and inserting “substantive rationale, including detailed and case-specific reasons,”; and

(2) by inserting at the end the following new paragraph:

“(3) If there is an open or completed inquiry into an Inspector General that relates to the removal or transfer of the Inspector General under paragraph (1), the written communication required under that paragraph shall—

“(A) identify each entity that is conducting, or that conducted, the inquiry; and

“(B) in the case of a completed inquiry, contain the findings made during the inquiry.”

(b) REASONS FOR REMOVAL OR TRANSFER FOR DESIGNATED FEDERAL ENTITIES.—Section 8G(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (2), by striking “reasons” and inserting “substantive rationale, including detailed and case-specific reasons,”; and

(2) by inserting at the end the following new paragraph:

“(3) If there is an open or completed inquiry into an Inspector General that relates to the removal or transfer of the Inspector General under paragraph (2), the written communication required under that paragraph shall—

“(A) identify each entity that is conducting, or that conducted, the inquiry; and

“(B) in the case of a completed inquiry, contain the findings made during the inquiry.”

## **Subtitle B—Inspectors General of Intelligence Community**

### **SEC. 711. Independence of Inspectors General of the Intelligence Community.**

(a) IN GENERAL.—The National Security Act of 1947 (50 U.S.C. 3001 et seq.) is amended by adding at the end the following new title:

## **“Title XII—Matters regarding Inspectors General of elements of the intelligence community**

### **“Subtitle A—Inspectors General**

#### **“SEC. 1201. Independence of Inspectors General.**

“(a) REMOVAL.—A covered Inspector General may be removed from office only by the head official. The head official may remove a covered Inspector General only for any of the following grounds:

- “(1) Documented permanent incapacity.
- “(2) Documented neglect of duty.
- “(3) Documented malfeasance.
- “(4) Documented conviction of a felony or conduct involving moral turpitude.
- “(5) Documented knowing violation of a law or regulation.
- “(6) Documented gross mismanagement.
- “(7) Documented gross waste of funds.
- “(8) Documented abuse of authority.
- “(9) Documented ~~inefficiency~~ *Inefficiency*.

“(b) ADMINISTRATIVE LEAVE.—A covered Inspector General may be placed on administrative leave only by the head official. The head official may place a covered Inspector General on administrative leave only for any of the grounds specified in subsection (a).

“(c) NOTIFICATION.—The head official may not remove a covered Inspector General under subsection (a) or place a covered Inspector General on administrative leave under subsection (b) unless—

- “(1) the head official transmits in writing to the appropriate congressional committees a notification of such removal or placement, including an explanation of the documented grounds specified in subsection (a) for such removal or placement; and
- “(2) with respect to the removal of a covered Inspector General, a period of 30 days elapses following the date of such transmittal.

“(d) REPORT.—Not later than 30 days after the date on which the head official notifies a



covered Inspector General of being removed under subsection (a) or placed on administrative leave under subsection (b), the office of that Inspector General shall submit to the appropriate congressional committees a report containing—

“(1) a description of the facts and ~~circumstances~~ circumstances of any pending complaint, investigation, inspection, audit, or other review or inquiry, including any information, allegation, or complaint reported to the Attorney General in accordance with section 535 of title 28, United States Code, that the Inspector General was working on as of the date of such removal or placement; and

“(2) any other significant matter that the office of the Inspector General determines appropriate.

“(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a personnel action of a covered Inspector General otherwise authorized by law, other than transfer or removal.

“(f) DEFINITIONS.—In this section:

“(1) ADMINISTRATIVE LEAVE.—The term ‘administrative leave’ includes any other type of paid or unpaid non-duty status.

“(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(A) the congressional intelligence committees; and

“(B) the Committee on Oversight and Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

“(3) HEAD OFFICIAL.—The term ‘head official’ means—

“(A) with respect to the position of a covered Inspector General that requires appointment by the President, by and with the advice and consent of the Senate, the President; and

“(B) with respect to the position of a covered Inspector General that requires appointment by a head of a department or agency of the Federal Government, the head of such department or agency.”

(b) DEFINITION.—Section 3 of such Act (50 U.S.C. 3003) is amended by adding at the end the following new paragraph:

“(8) The term ‘covered Inspector General’ means each of the following:

“(A) The Inspector General of the Intelligence Community.

“(B) The Inspector General of the Central Intelligence Agency.

“(C) The Inspector General of the Defense Intelligence Agency.

“(D) The Inspector General of the National Reconnaissance Office.

“(E) The Inspector General of the National Geospatial-Intelligence Agency.

“(F) The Inspector General of the National Security Agency.”

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of the National Security Act of 1947 is amended by adding after the items relating to title XI the end the following new items:

**“TITLE XII—MATTERS REGARDING INSPECTORS GENERAL OF  
ELEMENTS OF THE INTELLIGENCE COMMUNITY**

**“SUBTITLE A—INSPECTORS GENERAL**

“Sec. Independence of Inspectors General.”  
1201.

**SEC. 712. Authority of Inspectors General of the Intelligence Community to determine matters of urgent concern.**

(a) DETERMINATION.—

(1) IN GENERAL.—Title XII of the National Security Act of 1947, as added by section 711, is amended by inserting after section 1201 the following new section:

**“SEC. 1203. Determination of matters of urgent concern.**

“(a) DETERMINATION.—Each covered Inspector General shall have sole authority to determine whether any complaint or information reported to the Inspector General is a matter of urgent concern. Such determination is final and conclusive.

“(b) FOREIGN INTERFERENCE IN ELECTIONS.—In addition to any other matter which is considered an urgent concern pursuant to section 103H(k)(5)(G), section 17(d)(5)(G) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3517(d)(5)(G)), or other applicable provision of law, the term ‘urgent concern’ includes a serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to foreign interference in elections in the United States.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of the National Security Act of 1947 is amended by inserting after the item relating to section 1201, as added by section 711, the following new item:

“Sec. Determination of matters of urgent concern.”  
1203.

(b) CONFORMING AMENDMENTS.—

(1) INTELLIGENCE COMMUNITY.—Section 103H(k)(5)(G) of the National Security Act of 1947 (50 U.S.C. 3033(k)(5)(G)) is amended by striking “In this paragraph” and inserting “In accordance with section 1203, in this paragraph”.

(2) CENTRAL INTELLIGENCE AGENCY.—Section 17(d)(5)(G) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3517(d)(5)(G)) is amended by striking “In this paragraph” and inserting “In accordance with section 1203 of the National Security Act of 1947, in this paragraph”.

(c) REPORTS ON UNRESOLVED DIFFERENCES.—Paragraph (3) of section 103H(k) of the National Security Act of 1947 (50 U.S.C. 3033(k)) is amended by adding at the end the following new subparagraph:

“(C) With respect to each report submitted pursuant to subparagraph (A)(i), the

Inspector General shall include in the report, at a minimum—

“(i) a general description of the unresolved differences, the particular duties or responsibilities of the Inspector General involved, and, if such differences relate to a complaint or information under paragraph (5), a description of the complaint or information and the entities or individuals identified in the complaint or information; and

“(ii) to the extent such differences can be attributed not only to the Director but also to any other official, department, agency, or office within the executive branch, or a component thereof, the titles of such official, department, agency, or office.”

(d) CLARIFICATION OF ROLE OF DIRECTOR OF NATIONAL INTELLIGENCE.—Section 102A(f)(1) of such Act (50 U.S.C. 3024(f)(1)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph:

“(B) The authority of the Director of National Intelligence under subparagraph (A) includes coordinating and supervising activities undertaken by elements of the intelligence community for the purpose of protecting the United States from any foreign interference in elections in the United States.”

### **SEC. 713. Conforming amendments and coordination with other provisions of law.**

(a) INTELLIGENCE COMMUNITY.—Paragraph (4) of section 103H(c) of the National Security Act of 1947 (50 U.S.C. 3033(c)) is amended to read as follows:

“(4) The provisions of title XII shall apply to the Inspector General with respect to the removal of the Inspector General and any other matter relating to the Inspector General as specifically provided for in such title.”

(b) CENTRAL INTELLIGENCE AGENCY.—Paragraph (6) of section 17(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3517(b)) is amended to read as follows:

“(6) The provisions of title XII of the National Security Act of 1947 shall apply to the Inspector General with respect to the removal of the Inspector General and any other matter relating to the Inspector General as specifically provided for in such title.”

(c) OTHER ELEMENTS.—

(1) IN GENERAL.—Title XII of the National Security Act of 1947, as added by section 711, is further amended by inserting after section 1203, as added by 503. section 712(a), the following new section:

#### **“SEC. 1205. Coordination with other provisions of law.**

No provision of law that is inconsistent with any provision of this title shall be considered to supersede, repeal, or otherwise modify a provision of this title unless such other provision of law specifically cites a provision of this title in order to supersede, repeal, or otherwise modify that provision of this title.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of the National Security Act of 1947 is amended by inserting after the item relating to section 1203, as added by **503.**>section 713, the following new item:

“Sec.Coordination with other provisions of law.”  
1205.

## Subtitle C—Congressional Notification

### SEC. 721. Short title.

This subtitle may be cited as the “Inspector General Protection Act”.

### SEC. 722. Change in status of Inspector General offices.

(a) CHANGE IN STATUS OF INSPECTOR GENERAL OF OFFICE.—Paragraph (1) of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by inserting “, is placed on paid or unpaid non-duty status,” after “is removed from office”;

(2) by inserting “, change in status,” after “any such removal”; and

(3) by inserting “, change in status,” after “before the removal”.

(b) CHANGE IN STATUS OF INSPECTOR GENERAL OF DESIGNATED FEDERAL ENTITY.—Section 8G(e)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by inserting “, is placed on paid or unpaid non-duty status,” after “office”;

(2) by inserting “, change in status,” after “any such removal”; and

(3) by inserting “, change in status,” after “before the removal”.

(c) EXCEPTION TO REQUIREMENT **7070** SUBMIT COMMUNICATION RELATING TO CERTAIN CHANGES IN STATUS.—

(1) COMMUNICATION RELATING TO CHANGE IN STATUS OF INSPECTOR GENERAL OF OFFICE.—Section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.), as amended by section 702(1), is further amended—

(A) in paragraph (1), by striking “If” and inserting “Except as provided in paragraph (4), if”; and

(B) by adding at the end the following:

“(4) If an Inspector General is placed on paid or unpaid non-duty status, the President may submit the communication described in paragraph (1) to Congress later than 30 days before the Inspector General is placed on paid or unpaid non-duty status, but in any case not later than the date on which the placement takes effect, if—

“(A) the President determines that a delay in placing the Inspector General on paid or unpaid non-duty status would—

“(i) pose a threat to the Inspector General or others;

“(ii) result in the destruction of evidence relevant to an investigation; or

“(iii) result in loss of or damage to Government property; and

“(B) in the communication, the President includes—

“(i) a specification of which clause the President relied on to make the determination under subparagraph (A);

“(ii) the substantive rationale, including detailed and case-specific reasons, for such determination;

“(iii) if the President relied on an inquiry to make such determination, an identification of each entity that is conducting, or that conducted, such inquiry; and

“(iv) if an inquiry described in clause (iii) is completed, the findings of that inquiry.

“(5) The President may not place an Inspector General on paid or unpaid non-duty status during the 30-day period preceding the date on which the Inspector General is removed or transferred under paragraph (1) unless the President—

“(A) determines that not placing the Inspector General on paid or unpaid non-duty status would—

“(i) pose a threat to the Inspector General or others;

“(ii) result in the destruction of evidence relevant to an investigation; or

“(iii) result in loss of or damage to Government property; and

“(B) on or before the date on which the placement takes effect, submits to the Committee in the House of Representatives and the Committee in the Senate that has jurisdiction over the Inspector General involved, the Committee on Oversight and Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate, a written communication that contains the following information—

“(i) a specification of which clause under subparagraph (A) the President relied on to make the determination under such subparagraph;

“(ii) the substantive rationale, including detailed and case-specific reasons, for such determination;

“(iii) if the President relied on an inquiry to make such determination, an identification of each entity that is conducting, or that conducted, such inquiry; and

“(iv) if an inquiry described in clause (iii) is completed, the findings of that inquiry.”

(2) COMMUNICATION RELATING TO CHANGE IN STATUS OF INSPECTOR GENERAL OF

DESIGNATED FEDERAL ENTITY.—Section 8G(e) of the Inspector General Act Inspector General Act of 1978 (5 U.S.C. App.), as amended by section 702(2), is further amended—

(A) in paragraph (2), by striking “If” and inserting “Except as provided in paragraph (4), if”; and

(B) by adding at the end the following:

“(4) If an Inspector General is placed on paid or unpaid non-duty status, the head of a designated Federal entity may submit the communication described in paragraph (2) to Congress later than 30 days before the Inspector General is placed on paid or unpaid non-duty status, but in any case not later than the date on which the placement takes effect, if—

“(A) the head determines that a delay in placing the Inspector General on paid or unpaid non-duty status would—

“(i) pose a threat to the Inspector General or others;

“(ii) result in the destruction of evidence relevant to an investigation; or

“(iii) result in loss of or damage to Government property; ~~and~~

“(B) in the communication, the head includes—

“(i) a specification of which clause under subparagraph (A) the head relied on to make the determination under such subparagraph;

“(ii) the substantive rationale, including detailed and case-specific reasons, for such determination;

“(iii) if the head relied on an inquiry to make such determination, an identification of each entity that is conducting, or that conducted, such inquiry; and

“(iv) if an inquiry described in clause (iii) is completed, the findings of that inquiry.

“(5) The head may not place an Inspector General on paid or unpaid non-duty status during the 30-day period preceding the date on which the Inspector General is removed or transferred under paragraph (2) unless the head—

“(A) determines that not placing the Inspector General on paid or unpaid non-duty status would—

“(i) pose a threat to the Inspector General or others;

“(ii) result in the destruction of evidence relevant to an investigation; or

“(iii) result in loss of or damage to Government property; and

“(B) on or before the date on which the placement takes effect, submits to the Committee in the House of Representatives and the Committee in the Senate that has jurisdiction over the Inspector General involved, the Committee on Oversight and Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate, a written communication that contains the following information—

“(i) a specification of which clause under subparagraph (A) the head relied on to make the determination under such subparagraph;

“(ii) the substantive rationale, including detailed and case-specific reasons, for such determination;

“(iii) if the head relied on an inquiry to make such determination, an identification of each entity that is conducting, or that conducted, such inquiry; and

“(iv) if an inquiry described in clause (iii) is completed, the findings of that inquiry.”

(d) APPLICATION.—The amendments made by this section shall apply with respect to removals, transfers, and changes of status occurring on or after the date that is 30 days after the date of the enactment of this Act.

### **SEC. 723. Presidential explanation of failure to nominate an Inspector General.**

(a) IN GENERAL.—Subchapter III of chapter 33 of title 5, United States Code, is amended by inserting after section 3349d the following new section:

#### **“§ 3349e. Presidential explanation of failure to nominate an Inspector General**

If the President fails to make a formal nomination for a vacant Inspector General position that requires a formal nomination by the President to be filled within the period beginning on the date on which the vacancy occurred and ending on the day that is 210 days after that date, the President shall communicate, within 30 days after the end of such period, to Congress in writing—

“(1) the reasons why the President has not yet made a formal nomination; and

“(2) a target date for making a formal nomination.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to 3349d the following new item:

“3349e Presidential explanation of failure to nominate an Inspector General.”

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any vacancy first occurring on or after that date.

## **TITLE VIII—PROTECTING WHISTLEBLOWERS**

### **Subtitle A—Whistleblower Protection Improvement**

**SEC. 801. Short title.**

This title may be cited as the “Whistleblower Protection Improvement Act of 2021”.

**SEC. 802. Additional whistleblower protections.**

(a) INVESTIGATIONS AS PERSONNEL ACTIONS.—

(1) IN GENERAL.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

- (A) in clause (xi), by striking “and” at the end;
- (B) by redesignating clause (xii) as clause (xiii); and
- (C) by inserting after the clause (xi) the following:

“(xii) for purposes of subsection (b)(8)—

“(I) the commencement, expansion, or extension of an investigation, but not including any investigation that is ministerial or nondiscretionary (including a ministerial or nondiscretionary investigation described in section 1213) or any investigation that is conducted by an Inspector General of an entity of the Government of an employee not employed by the office of that Inspector General; and

“(II) a referral to an Inspector General of an entity of the Government, except for a referral that is ministerial or nondiscretionary; and”

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to any investigation opened, or referral made, as described under clause (xii) of section 2302(a)(2)(A) of title 5, United States Code, as added by such paragraph, on or after the date of enactment of this Act.

(b) RIGHT ~~TO~~<sup>TO</sup> PETITION CONGRESS.—

(1) IN GENERAL.—Section 2302(b)(9) of title 5, United States Code, is amended—

- (A) in subparagraph (C), by striking “or” at the end;
- (B) in subparagraph (D), by adding “or” after the semicolon at the end; and
- (C) by adding at the end the following:

“(E) the exercise of any right protected under section 7211;”

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to the exercise of any right described in section 2302(b)(9)(E) of title 5, United States Code, as added by paragraph (1), occurring on or after the date of enactment of this Act.

(c) PROHIBITION ON DISCLOSURE OF WHISTLEBLOWER IDENTITY.—

(1) IN GENERAL.—Section 2302 of title 5, United States Code, is amended by adding at the end the following:

“(g)

(1) No employee of an agency may willfully communicate or transmit to any individual who is not an officer or employee of the Government the identity of, or personally identifiable information about, any other employee because that other employee has made, or is suspected to have made, a disclosure protected by



subsection (b)(8), unless—

“(A) the other employee provides express written consent prior to the communication or transmission of their identity or personally identifiable information;

“(B) the communication or transmission is made in accordance with the provisions of section 552a;

“(C) the communication or transmission is made to a lawyer for the sole purpose of providing legal advice to an employee accused of whistleblower retaliation; or

“(D) the communication or transmission is required or permitted by any other provision of law.

“(2) In this subsection, the term ‘officer or employee of the Government’ means—

“(A) the President;

“(B) a Member of Congress;

“(C) a member of the uniformed services;

“(D) an employee as that term is defined in section 2105, including an employee of the United States Postal Service, the Postal Regulatory Commission, or the Department of Veterans Affairs (including any employee appointed pursuant to chapter 73 or 74 of title 38); and

“(E) any other officer or employee in any branch of the Government of the United States.”

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to any transmission or communication described in subsection (g) of section 2302 of title 5, United States Code, as added by paragraph (1), made on or after the date of enactment of this Act.

(d) RIGHT ~~TO~~ PETITION CONGRESS.—

(1) IN GENERAL.—Section 7211 of title 5, United States Code, is amended to read as follows:

**“§ 7211. Employees’ right to petition or furnish information or respond to Congress**

“(a) IN GENERAL.—Each officer or employee of the Federal Government, individually or collectively, has a right to—

“(1) petition Congress or a Member of Congress;

“(2) furnish information, documents, or testimony to either House of Congress, any Member of Congress, or any committee or subcommittee of the Congress; or

“(3) respond to any request for information, documents, or testimony from either House of Congress or any Committee or subcommittee of Congress.

“(b) PROHIBITED ACTIONS.—No officer or employee of the Federal Government may interfere with or deny the right set forth in subsection (a), including—

“(1) prohibiting or preventing, or attempting or threatening to prohibit or prevent, any other officer or employee of the Federal Government from engaging in activity protected in subsection (a); or

“(2) removing, suspending from duty without pay, demoting, reducing in rank, seniority, status, pay, or performance or efficiency rating, denying promotion to, relocating, reassigning, transferring, disciplining, or discriminating in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government or attempting or threatening to commit any of the foregoing actions protected in subsection (a).

“(c) APPLICATION.—This section shall not be construed to authorize disclosure of any information that is—

“(1) specifically prohibited from disclosure by any other provision of Federal law; or

“(2) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs, unless disclosure is otherwise authorized by law.

“(d) DEFINITION OF OFFICER OR EMPLOYEE OF THE FEDERAL GOVERNMENT.—For purposes of this section, the term ‘officer or employee of the Federal Government’ includes—

“(1) the President;

“(2) a Member of Congress;

“(3) a member of the uniformed services;

“(4) an employee (as that term is defined in section 2105);

“(5) an employee of the United States Postal Service or the Postal Regulatory Commission; and

“(6) an employee appointed under chapter 73 or 74 of title 38.”

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 72 of title 5, United States Code, is amended by striking the item related to section 7211 and inserting the following:

“721 Employees’ right to petition or furnish information or respond to Congress.”

### **SEC. 803. Enhancement of whistleblower protections.**

(a) DISCLOSURES RELATING TO OFFICERS OR EMPLOYEES OF AN OFFICE OF INSPECTOR GENERAL.—Section 1213(c) of title 5, United States Code, is amended by adding at the end the following:

“(3) If the information transmitted under this subsection disclosed a violation of law, rule, or regulation, or gross waste, gross mismanagement, abuse of authority, or a substantial and specific danger to public health or safety, by any officer or employee of an Office of Inspector General, the Special Counsel may refer the matter to the Council

of the Inspectors General on Integrity and Efficiency, which shall comply with the standards and procedures applicable to investigations and reports under subsection (c).”

(b) RETALIATORY REFERRALS TO INSPECTORS GENERAL.—Section 1214(d) of title 5, United States Code, is amended by adding at the end the following:

“(3) In any case in which the Special Counsel determines that a referral to an Inspector General of an entity of the Federal Government was in retaliation for a disclosure or protected activity described in section 2302(b)(8) or in retaliation for exercising a right described in section 2302(b)(9)(A)(i), the Special Counsel shall transmit that finding in writing to the Inspector General within seven days of making the finding. The Inspector General shall consider that finding and make a determination on whether to initiate an investigation or continue an investigation based on the referral that the Special Counsel found to be retaliatory.”

(c) ENSURING TIMELY RELIEF.—

(1) INDIVIDUAL RIGHT OF ACTION.—Section 1221 of title 5, United States Code, is amended by striking “section 2302(b)(8) or section 2302(b)(9)(A)(i), (B), (C), or (D),” each place it appears and inserting “section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g).”

(2) STAYS.—Section 1221(c)(2) of title 5, United States Code, is amended to read as follows:

“(2) Any stay requested under paragraph (1) shall be granted within 10 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date the request is made, if the Board determines—

“(A) that there is a substantial likelihood that protected activity was a contributing factor to the personnel action involved; or

“(B) the Board otherwise determines that such a stay would be appropriate.”

(3) APPEAL OF STAY.—Section 1221(c) of title 5, United States Code, is amended by adding at the end the following:

“(4) If any stay requested under paragraph (1) is denied, the employee, former employee, or applicant may, within 7 days after receiving notice of the denial, file an appeal for expedited review by the Board. The agency shall have 7 days thereafter to respond. The Board shall provide a decision not later than 21 days after receiving the appeal. During the period of appeal, both parties may supplement the record with information unavailable to them at the time the stay was first requested.”

(4) ACCESS TO DISTRICT COURT; JURY TRIALS.—

(A) IN GENERAL.—Section 1221(i) of title 5, United States Code, is amended—

(i) by striking “(i) Subsections” and inserting “(i)(1) Subsections”; and

(ii) by adding at the end the following:

“(2)

(A) If, in the case of an employee, former employee, or applicant for employment who seeks corrective action from the Merit Systems Protection Board based on an alleged prohibited personnel practice described in section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g), no final order or decision is issued by the Board within 180 days after the date on which a request for such corrective action has been duly submitted to the Board, such employee, former employee, or applicant may, after providing written notice to the Special Counsel and the Board and only within 20 days after providing such notice, bring an action for review de novo before the appropriate United States district court, and such action shall, at the request of either party to such action, be tried before a jury. Upon filing of an action with the appropriate United States district court, any proceedings before the Board shall cease and the employee, former employee, or applicant for employment waives any right to refile with the Board.

“(B) If the Board certifies (in writing) to the parties of a case that the complexity of such case requires a longer period of review, subparagraph (A) shall be applied by substituting ‘240 days’ for ‘180 days’.

“(C) In any such action brought before a United States district court under subparagraph (A), the court—

“(i) shall apply the standards set forth in subsection (e);  
and

“(ii) may award any relief which the court considers appropriate, including any relief described in subsection (g).”

(B) APPLICATION.—

(i) The amendments made by subparagraph (A) shall apply to any corrective action duly submitted to the Merit Systems Protection Board, during the five-year period preceding the date of enactment of this Act, by an employee, former employee, or applicant for employment based on an alleged prohibited personnel practice described in section 2302(b)(8), 2302(b)(9)(A)(i), (B), (C), or (D), or 2302(b)(13) of title 5, United States Code, with respect to which no final order or decision has been issued by the Board.

(ii) In the case of an individual described in clause (i) whose duly submitted claim to the Board was made not later than 180 days before the date of enactment of this Act, such individual may only bring an action before a United States district court as described in section 1221(i)(2) of title 5, United States Code, (as added by subparagraph (A)) if that individual—

(I) provides written notice to the Office of Special Counsel and the

Merit Systems Protection Board not later than 90 days after the date of enactment of this Act; and

(II) brings such action not later than 20 days after providing such notice.

(d) RECIPIENTS OF WHISTLEBLOWER DISCLOSURES.—Section 2302(b)(8)(B) of title 5, United States Code, is amended by striking “or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures” and inserting “the Inspector General of an agency, a supervisor in the employee’s direct chain of command up to and including the head of the employing agency, or to an employee designated by any of the aforementioned individuals for the purpose of receiving such disclosures”.

(e) ATTORNEY FEES.—

(1) IN GENERAL.—Section 7703(a) of title 5, United States Code, is amended by adding at the end the following:

“(3) If an employee, former employee, or applicant for employment is the prevailing party under a proceeding brought under this section, the employee, former employee, or applicant for employment shall be entitled to attorney fees for all representation carried out pursuant to this section. In such an action for attorney fees, the agency responsible for taking the personnel action shall be the respondent and shall be responsible for paying the fees.”

(2) APPLICATION.—In addition to any proceeding brought by an employee, former employee, or applicant for employment on or after the date of enactment of this Act to a Federal court under section 7703 of title 5, United States Code, the amendment made by paragraph (1) shall apply to any proceeding brought by an employee, former employee, or applicant for employment under such section before the date of enactment of this Act with respect to which the applicable Federal court has not issued a final decision.

(f) EXTENDING WHISTLEBLOWER PROTECTION ACT TO CERTAIN EMPLOYEES.—

(1) IN GENERAL.—Section 2302(a)(2)(A) of title 5, United States Code, is amended in the matter following clause (xiii)—

(A) by inserting “subsection (b)(9)(A)(i), (B), (C), (D), or (E), subsection (b)(13), or subsection (g),” after “subsection (b)(8),”; and

(B) by inserting after “title 31” the following: “, a commissioned officer or applicant for employment in the Public Health Service, an officer or applicant for employment in the commissioned officer corps of the National Oceanic and Atmospheric Administration, and a noncareer appointee in the Senior Executive Service”.

(2) CONFORMING AMENDMENTS.—Section 261 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3071) is amended—

(A) in subsection (a)—

(i) by striking paragraph (8); and

(ii) by redesignating paragraphs (9) through (26) as paragraphs (8) through (25), respectively; and

(B) in subsection (b), by striking the second sentence.

(3) APPLICATION.—

(A) IN GENERAL.—With respect to an officer or applicant for employment in the commissioned officer corps of the National Oceanic and Atmospheric Administration, the amendments made by paragraphs (1) and (2) shall apply to any personnel action taken against such officer or applicant on or after the date of enactment of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments Act of 2020 (Public Law 116–259) for making any disclosure protected under section 2302(8) of title 5, United States Code.

(B) EXCEPTION.—Subparagraph (A) shall not apply to any personnel action with respect to which a complaint has been filed pursuant to section 1034 of title 10, United States Code, and a final decision has been rendered regarding such complaint.

(g) RELIEF.—

(1) IN GENERAL.—Section 7701(b)(2)(A) of title 5, United States Code, is amended by striking “upon the making of the decision” and inserting “upon making of the decision, necessary to make the employee whole as if there had been no prohibited personnel practice, including training, seniority and promotions consistent with the employee’s prior record”.

(2) APPLICATION.—In addition to any appeal made on or after the date of enactment of this Act to the Merit Systems Protection Board under section 7701 of title 5, United States Code, the amendment made by paragraph (1) shall apply to any appeal made under such section before the date of enactment of this Act with respect to which the Board has not issued a final decision.

#### **SEC. 804. Classifying certain furloughs as adverse personnel actions.**

(a) IN GENERAL.—Section 7512 of title 5, United States Code, is amended—

(1) in paragraph (4), by striking “and” at the end; and

(2) by striking paragraph (5) and inserting the following:

“(5) a furlough of more than 14 days but less than 30 days; and

“(6) a furlough of 13 days or less that is not due to a lapse in appropriations;”

(b) APPLICATION.—The amendment made by subsection (a) shall apply to any furlough covered by such section 7512(5) or (6) (as amended by such subsection) occurring on or after the date of enactment of this Act.

#### **SEC. 805. Codification of protections for disclosures of censorship related to research, analysis, or technical information.**

(a) IN GENERAL.—Section 2302 of title 5, United States Code, as amended by section 802(c)(1), is further amended by adding at the end the following:

“(h)

(1) In this subsection—

“(A) the term ‘applicant’ means an applicant for a covered position;

“(B) the term ‘censorship related to research, analysis, or technical information’ means any effort to distort, misrepresent, or suppress research, analysis, or technical information; and

“(C) the term ‘employee’ means an employee in a covered position in an agency.

“(2)

(A) Any disclosure of information by an employee or applicant for employment that the employee or applicant reasonably believes is evidence of censorship related to research, analysis, or technical information—

“(i) shall come within the protections of subsection (b)(8)(A) if—

“(I) the employee or applicant reasonably believes that the censorship related to research, analysis, or technical information is or will cause—

“(aa) any violation of law, rule, or regulation; or

“(bb) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; and

“(II) such disclosure is not specifically prohibited by law or such information is not specifically required by Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs; and

“(ii) shall come within the protections of subsection (b)(8)(B) if—

“(I) the employee or applicant reasonably believes that the censorship related to research, analysis, or technical information is or will cause—

“(aa) any violation of law, rule, or regulation; or

“(bb) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; and

“(II) the disclosure is made to the Special Counsel, or to the Inspector General of an agency or another person designated by the head of the agency to receive such disclosures, consistent with the protection of sources and methods.

“(3) A disclosure shall not be excluded from paragraph (2) for any reason described under subsection (f)(1) or (2).

“(4) Nothing in this subsection shall be construed to imply any limitation on the protections of employees and applicants afforded by any other provision of law, including protections with respect to any disclosure of information believed to be evidence of censorship related to research, analysis, or technical information.”

(b) REPEAL.—

(1) IN GENERAL.—Section 110 of the Whistleblower Protection Enhancement Act

of 2012 (Public Law 112–199) is hereby repealed.

(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit or otherwise affect any action under such section 110 commenced before the date of enactment of this Act or any protections afforded by such section with respect to such action.

**SEC. 806. Title 5 technical and conforming amendments.**

Title 5, United States Code, is amended—

(1) in section 1212(h), by striking “or (9)” each place it appears and inserting “, (b)(9), (b)(13), or (g)”;

(2) in section 1214—

(A) in subsections (a) and (b), by striking “section 2302(b)(8) or section 2302(b)(9)(A)(i), (B), (C), or (D)” each place it appears and inserting “section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g)”;

(B) in subsection (i), by striking “section 2302(b)(8) or subparagraph (A)(i), (B), (C), or (D) of section 2302(b)(9)” and inserting “section 2302(b)(8), subparagraph (A)(i), (B), (C), (D), or (E) of section 2302(b)(9), section 2302(b)(13), or section 2302(g)”;

(3) in section 1215(a)(3)(B), by striking “section 2302(b)(8), or 2302(b)(9)(A)(i), (B), (C), or (D)” each place it appears and inserting “section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g)”;

(4) in section 2302—

(A) in subsection (a)—

(i) in paragraph (1), by inserting “or (g)” after “subsection (b)”;

(ii) in paragraph (2)(C)(i), by striking “subsection (b)(8) or section 2302(b)(9)(A)(i), (B), (C), or (D)” and inserting “section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g)”;

(B) in subsection (c)(1)(B), by striking “paragraph (8) or subparagraph (A)(i), (B), (C), or (D) of paragraph (9) of subsection (b)” and inserting “paragraph (8), subparagraph (A)(i), (B), (C), or (D) of paragraph (9), or paragraph (13) of subsection (b) or subsection (g)”;

(5) in section 7515(a)(2), by striking “paragraph (8), (9), or (14) of section 2302(b)” and inserting “paragraph (8), (9), (13), or (14) of section 2302(b) or section 2302(g)”;

(6) in section 7701(c)(2)(B), by inserting “or section 2302(g)” after “section 2302(b)”;

(7) in section 7703(b)(1)(B), by striking “section 2302(b)(8), or 2302(b)(9)(A)(i), (B), (C), or (D)” and inserting “section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g)”.

**Subtitle B—Whistleblowers of the Intelligence**



## Community

### **SEC. 811. Limitation on sharing of intelligence community whistleblower complaints with persons named in such complaints.**

(a) IN GENERAL.—Title XII of the National Security Act of 1947, as added by 501.>section 711, is further amended by inserting after section 1205, as added by 503.>section 713(c), the following new subtitle:

### **“Subtitle B—Protections for whistleblowers**

#### **“SEC. 1223. Limitation on sharing of intelligence community whistleblower complaints with persons named in such complaints.**

“(a) IN GENERAL.—It shall be unlawful for any employee or officer of the Federal Government to knowingly and willfully share any whistleblower disclosure information with any individual named as a subject of the whistleblower disclosure and alleged in the disclosure to have engaged in misconduct, unless—

“(1) the whistleblower consented, in writing, to such sharing before the sharing occurs;

“(2) a covered Inspector General to whom such disclosure is made—

“(A) determines that such sharing is necessary to advance an investigation, audit, inspection, review, or evaluation by the Inspector General; and

“(B) notifies the whistleblower of such sharing before the sharing occurs; or

“(3) an attorney for the Government—

“(A) determines that such sharing is necessary to advance an investigation by the attorney; and

“(B) notifies the whistleblower of such sharing before the sharing occurs.

“(b) WHISTLEBLOWER DISCLOSURE INFORMATION DEFINED.—In this section, the term ‘whistleblower disclosure information’ means, with respect to a whistleblower disclosure—

“(1) the disclosure;

“(2) confirmation of the fact of the existence of the disclosure; or

“(3) the identity, or other identifying information, of the whistleblower who made the disclosure.”

(b) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) TRANSFER.—The National Security Act of 1947 (50 U.S.C. 3001 et seq.) is amended as follows:

(A) Section 1104 is—

(i) transferred to title XII of such Act, as added by section 711;

(ii) inserted before section 1223 of such Act, as added by this section;

and

(iii) redesignated as section 1221.

(B) Section 1106 is—

- (i) amended by striking “section 1104” each place it appears and inserting “section 1221”;
- (ii) transferred to title XII of such Act, as added by section 711;
- (iii) inserted after section 1223 of such Act, as added by this section; and
- (iv) redesignated as section 1225.

(2) CLERICAL AMENDMENTS.—The table of sections at the beginning of the National Security Act of 1947 is amended—

- (A) by striking the items relating to section 1104 and section 1106; and
- (B) by inserting after the item relating to section 1205 the following new items:

**“SUBTITLE B—PROTECTIONS FOR WHISTLEBLOWERS**

“Sec.Prohibited personnel practices in the intelligence community.  
1221.

“Sec.Limitation on sharing of intelligence community whistleblower complaints  
1223. with persons named in such complaints.

“Sec.Inspector General external review panel.”  
1225.

(c) DEFINITIONS.—Section 3 of such Act (50 U.S.C. 3003), as amended by 501. section 711, is further amended by adding at the end the following new paragraphs:

“(9) The term ‘whistleblower’ means a person who makes a whistleblower disclosure.

“(10) The term ‘whistleblower disclosure’ means a disclosure that is protected under section 1221 of this Act or section 3001(j)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 3341(j)).”

(d) CONFORMING AMENDMENT.—Section 5331 of the Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020 (division E of Public Law 116–92; 50 U.S.C. 3033 note) is amended by striking “section 1104 of the National Security Act of 1947 (50 U.S.C. 3234)” and inserting “section 1221 of the National Security Act of 1947”.

**SEC. 812. Disclosures to Congress.**

(a) IN GENERAL.—Title XII of the National Security Act of 1947, as added by 501. section 711, is further amended by inserting after section 1225, as designated by 504.(b) section 811(b), the following new section:

**“SEC. 1227. Procedures regarding disclosures to Congress.**

“(a) GUIDANCE.—

“(1) OBLIGATION TO PROVIDE SECURITY DIRECTION UPON REQUEST.—Upon the request of a whistleblower, the head of the relevant element of the intelligence

community, acting through the covered Inspector General for that element, shall furnish on a confidential basis to the whistleblower information regarding how the whistleblower may directly contact the congressional intelligence committees, in accordance with appropriate security practices, regarding a complaint or information of the whistleblower pursuant to section 103H(k)(5)(D) or other appropriate provision of law.

“(2) NONDISCLOSURE.—Unless a whistleblower who makes a request under paragraph (1) provides prior consent, a covered Inspector General may not disclose to the head of the relevant element of the intelligence community—

“(A) the identity of the whistleblower; or

“(B) the element at which such whistleblower is employed, detailed, or assigned as a contractor employee.

“(b) OVERSIGHT OF OBLIGATION.—If a covered Inspector General determines that the head of an element of the intelligence community denied a request by a whistleblower under subsection (a), directed the whistleblower not to contact the congressional intelligence committees, or unreasonably delayed in providing information under such subsection, the covered Inspector General shall notify the congressional intelligence committees of such denial, direction, or unreasonable delay.

“(c) PERMANENT SECURITY OFFICER.—The head of each element of the intelligence community may designate a permanent security officer in the element to provide to whistleblowers the information under subsection (a).”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the National Security Act of 1947 is amended by inserting after the item relating to section 1225, as added by 504.(b) section 811(b), the following new item:

“Sec. Procedures regarding disclosures to Congress.”  
1227.

(c) CONFORMING AMENDMENT.—Section 103H(k)(5)(D)(i) of the National Security Act of 1947 (50 U.S.C. 3033(k)(5)(D)(i)) is amended by adding at the end the following: “The employee may request information pursuant to section 1227 with respect to contacting such committees.”

**SEC. 813. Prohibition against disclosure of whistleblower identity as reprisal against whistleblower disclosure by employees and contractors in intelligence community.**

(a) IN GENERAL.—Paragraph (3) of subsection (a) of section 1221 of the National Security Act of 1947, as designated by 504.(b)(1)(A) section 811(b)(1)(A), is amended—

(1) in subparagraph (I), by striking “; or” and inserting a semicolon;

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following:

“(J) a knowing and willful disclosure revealing the identity or other personally identifiable information of such employee or such contractor employee without the express written consent of such employee or such contractor employee or if

the Inspector General determines such disclosure is necessary for the exclusive purpose of investigating a complaint or information received under section 8H of the Inspector General Act of 1978 (5 U.S.C. App. 8H); or”

(b) **APPLICABILITY TO DETAILEES.**—Such subsection is amended by adding at the end the following:

“(5) **EMPLOYEE.**—The term ‘employee’, with respect to an agency or a covered intelligence community element, includes an individual who has been detailed to such agency or covered intelligence community element.”

(c) **PRIVATE RIGHT OF ACTION FOR UNLAWFUL DISCLOSURE OF WHISTLEBLOWER IDENTITY.**—Subsection (d) of such section is amended to read as follows:

“(d) **ENFORCEMENT.**—

“(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the President shall provide for the enforcement of this section.

“(2) **PRIVATE RIGHT OF ACTION FOR UNLAWFUL, WILLFUL DISCLOSURE OF WHISTLEBLOWER IDENTITY.**—In a case in which an employee of an agency, or other employee or officer of the Federal Government, takes a personnel action described in subsection (a)(3)(J) against an employee of a covered intelligence community element as a reprisal in violation of subsection (b) or in a case in which a contractor employee takes a personnel action described in such subsection against another contractor employee as a reprisal in violation of subsection (c), the employee or contractor employee against whom the personnel action was taken may bring a private action for all appropriate remedies, including injunctive relief and compensatory and punitive damages, against the employee or contractor employee who took the personnel action, in a Federal district court of competent jurisdiction within 180 days of when the employee or contractor employee first learned of or should have learned of the violation.”

## **TITLE IX—ACCOUNTABILITY FOR ACTING OFFICIALS**

### **SEC. 901. Short title.**

This title may be cited as the “Accountability for Acting Officials Act”.

### **SEC. 902. Clarification of Federal Vacancies Reform Act of 1998.**

(a) **ELIGIBILITY REQUIREMENTS.**—Section 3345 of title 5, United States Code, is amended as follows:

(1) In subsection (a)—

(A) in paragraph (1), by adding at the end before the semi-colon the following: “, but, and except as provided in subsection (e), only if the individual serving in the position of first assistant has occupied such position for a period

of at least 30 days during the 365-day period preceding the date of the death, resignation, or beginning of inability to serve”; and

(B) by striking subparagraph (A) of paragraph (3) and inserting the following:

“(A) the officer or employee served in a position in such agency for a period of at least 1 year preceding the date of death, resignation, or beginning of inability to serve of the applicable officer; and ”

(2) By adding at the end the following:

“(d) For purposes of this section, a position shall be considered to be the first assistant to the office with respect to which a vacancy occurs only if such position has been designated, at least 30 days before the date of the vacancy, by law, rule, or regulation as the first assistant position. The previous sentence shall begin to apply on the date that is 180 days after the date of enactment of the Accountability for Acting Officials Act.

“(e) The 30-day service requirement in subsection (a)(1) shall not apply to any individual who is a first assistant if—

“(1)

(A) the office of such first assistant is an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate; and

“(B) the Senate has approved the appointment of such individual to such office; or

“(2) the individual began serving in the position of first assistant during the 180-day period beginning on a transitional inauguration day (as that term is defined in section 3349a(a)).”

(b) QUALIFICATIONS.—Section 3345(b) of title 5, United States Code, is amended by adding at the end the following:

“(3) Any individual directed to perform the functions and duties of the vacant office temporarily in an acting capacity under subsection (a)(2) or (f) shall possess the qualifications (if any) set forth in law, rule, or regulation that are otherwise applicable to an individual appointed by the President, by and with the advice and consent of the Senate, to occupy such office.”

(c) APPLICATION TO INDIVIDUALS REMOVED FROM OFFICE.—Paragraph (2) of section 3345(c) of title 5, United States Code, is amended by inserting after “the expiration of a term of office” the following: “or removal (voluntarily or involuntarily) from office”.

(d) VACANCY OF INSPECTOR GENERAL POSITIONS.—

(1) IN GENERAL.—Section 3345 of title 5, United States Code, as amended by subsection (a)(2), is further amended by adding at the end the following:

“(f)

(1) Notwithstanding subsection (a), if an Inspector General position that

requires appointment by the President by and with the advice and consent of the Senate to be filled is vacant, the first assistant of such position shall perform the functions and duties of the Inspector General temporarily in an acting capacity subject to the time limitations of section 3346.

“(2) Notwithstanding subsection (a), if for purposes of carrying out paragraph (1) of this subsection, by reason of absence, disability, or vacancy, the first assistant to the position of Inspector General is not available to perform the functions and duties of the Inspector General, an acting Inspector General shall be appointed by the President from among individuals serving in an office of any Inspector General, provided that—

“(A) during the 365-day period preceding the date of death, resignation, or beginning of inability to serve of the applicable Inspector General, the individual served in a position in an office of any Inspector General for not less than 90 days; and

“(B) the rate of pay for the position of such individual is equal to or greater than the minimum rate of pay payable for a position at GS-15 of the General Schedule.”

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to any vacancy first occurring with respect to an Inspector General position on or after the date of enactment of this Act.

(e) TESTIMONY OF ACTING OFFICIALS BEFORE CONGRESS.—Section 3345 of title 5, United States Code, as amended by subsection (d)(1), is further amended by adding at the end the following:

“(g)

(1) Any individual serving as an acting officer due to a vacancy to which this section applies, or any individual who has served in such capacity and continues to perform the same or similar duties beyond the time limits described in section 3346, shall appear, at least once during any 60-day period that the individual is so serving, before the appropriate committees of jurisdiction of the House of Representatives and the Senate.

“(2) Paragraph (1) may be waived upon mutual agreement of the chairs and ranking members of such committees.”

(f) TIME LIMITATION FOR PRINCIPAL OFFICES.—Section 3346 of title 5, United States Code, is amended—

(1) in subsection (a), by inserting “or as provided in subsection (d)” after “sickness”; and

(2) by adding at the end the following:

“(d) With respect to the vacancy of the position of head of any agency listed in subsection (b) of section 901 of title 31, or any other position that is within the President's cabinet and to which this section applies, subsections (a) through (c) of this section and sections 3348(c), 3349(b), and 3349a(b) shall be applied by substituting ‘120’ for ‘210’ in each instance.”

(g) EXCLUSIVITY.—Section 3347 of title 5, United States Code, is amended—

- (1) by redesignating subsection (b) as subsection (c); and
- (2) by inserting after subsection (a) the following:

“(b) Notwithstanding subsection (a), any statutory provision covered under paragraph (1) of such subsection that contains a non-discretionary order or directive to designate an officer or employee to perform the functions and duties of a specified office temporarily in an acting capacity shall be the exclusive means for temporarily authorizing an acting official to perform the functions and duties of such office.”

(h) REPORTING OF VACANCIES.—

(1) IN GENERAL.—Section 3349 of title 5, United States Code, is amended—

(A) in subsection (a)—

- (i) by striking “immediately upon” in each instance and inserting “not later than 7 days after”;
- (ii) in paragraph (3), by striking “and” at the end;
- (iii) in paragraph (4), by striking the period at the end and inserting “; and”;
- (iv) by adding at the end the following:

“(5) notification of the end of the term of service of any person serving in an acting capacity and the name of any subsequent person serving in an acting capacity and the date the service of such subsequent person began not later than 7 days after such date.”

; and

(B) in subsection (b), by striking “immediately” and inserting “not later than 14 days after the date of such determination”.

(2) TECHNICAL CORRECTIONS.—Paragraphs (1) and (2) of subsection (b) of such section 3349 of such title are amended to read as follows:

“(1) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(2) the Committee on Oversight and Reform of the House of Representatives;”

(i) VACANCIES DURING PRESIDENTIAL INAUGURAL TRANSITIONS.—Subsection (b) of section 3349a of title 5, United States Code, is amended to read as follows:

“(b) Notwithstanding section 3346 (except as provided in paragraph (2) of this subsection) or 3348(c), with respect to any vacancy that exists on a transitional inauguration day, or that arises during the 60-day period beginning on such day, the person serving as an acting officer as described under section 3345 may serve in the office—

“(1) for no longer than 300 days beginning on such day; or

“(2) subject to subsection 3346(b), once a first or second nomination for the office is submitted to the Senate, from the date of such nomination for the period that the

nomination is pending in the Senate.”

## **TITLE X—STRENGTHENING HATCH ACT ENFORCEMENT AND PENALTIES**

### **SEC. 1001. Short title.**

This title may be cited as the “Hatch Act Accountability Act”.

### **SEC. 1002. Strengthening Hatch Act enforcement and penalties against political appointees.**

(a) INVESTIGATIONS BY OFFICE OF SPECIAL COUNSEL.—Section 1216 of title 5, United States Code, as amended by section 307, is amended—

(1) in subsection (c), by striking “(1),”; and

(2) by adding at the end the following:

“(e)

(1) In addition to the authority otherwise provided in this chapter, the Special Counsel—

“(A) shall conduct an investigation with respect to any allegation concerning political activity prohibited under subchapter III of chapter 73 (relating to political activities by Federal employees); and

“(B) may, regardless of whether the Special Counsel has received an allegation, conduct any investigation as the Special Counsel considers necessary concerning political activity prohibited under such subchapter.

“(2) With respect to any investigation under paragraph (1) of this subsection, the Special Counsel may seek corrective action under section 1214 and disciplinary action under section 1215 in the same way as if a prohibited personnel practice were involved.

“(f)

(1) Notwithstanding subsection (b) of section 1215, consistent with paragraph (3) of this subsection, if after an investigation under subsection (d)(1) the Special Counsel determines that a political appointee has violated section 7323 or 7324, the Special Counsel may present a complaint to the Merit Systems Protection Board under the process provided in section 1215, against such political appointee.

“(2) Notwithstanding section 7326, a final order of the Board on a complaint of a violation of section 7323 or 7324 by a political appointee may impose an assessment of a civil penalty not to exceed \$50,000.

“(3) The Special Counsel may not present a complaint under paragraph (1) of this subsection—

“(A) unless no disciplinary action or civil penalty has been taken or



assessed, respectively, against the political appointee pursuant to section 7326; and

“(B) until on or after the date that is 90 days after the date that the complaint regarding the political appointee was presented to the President under section 1215(b), notwithstanding whether the President submits a written statement pursuant to paragraph (4) of this subsection.

“(4)

(A) Not later than 90 days after receiving from the Special Counsel a complaint recommending disciplinary action under section 1215(b) with respect to a political appointee for a violation of section 7323 or 7324, the President shall provide a written statement to the Special Counsel on whether the President imposed the recommended disciplinary action, imposed another form of disciplinary action and the nature of that disciplinary action, or took no disciplinary action against the political appointee.

“(B) Not later than 14 days after receiving a written statement under subparagraph (A) of this paragraph—

“(i) the Special Counsel shall submit the written statement to the Committee on Oversight and Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(ii) publish the written statement on the public website of the Office of Special Counsel.

“(5) Not later than 14 days after the date that the Special Counsel determines a political appointee has violated section 7323 or 7324, the Special Counsel shall—

“(A) submit a report on the investigation into such political appointee, and any communications sent from the Special Counsel to the President recommending discipline of such political appointee, to the Committee on Oversight and Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(B) publish the report and such communications on the public website of the Office of Special Counsel.

“(6) In this subsection, the term ‘political appointee’ means any individual, other than the President and the Vice-President, employed or holding office—

“(A) in the Executive Office of the President, the Office of the Vice President, and any other office of the White House, but not including any career employee; or

“(B) in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President, by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States).”

(b) CLARIFICATION ON APPLICATION OF HATCH ACT TO EOP AND OVP EMPLOYEES.—Section 7322(1)(A) of title 5, United States Code, is amended by inserting after “Executive agency” the following: “, including the Executive Office of the President,

the Office of the Vice President, and any other office of the White House.”.

## **TITLE XI—PROMOTING EFFICIENT PRESIDENTIAL TRANSITIONS**

### **SEC. 1101. Short title.**

This title may be cited as the “Efficient Transition Act of 2021”.

### **SEC. 1102. Ascertainment of successful candidates in general elections for purposes of presidential transition.**

(a) IN GENERAL.—Section 3(c) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

- (1) by striking “The terms” and inserting “(1) The terms”; and
- (2) by adding at the end the following:

“(2) The Administrator shall make the ascertainment under paragraph (1) as soon as practicable after the general elections.

“(3) If the Administrator does not make such ascertainment within 5 days after such elections, each eligible candidate for President and Vice President shall be treated as if they are the apparent successful candidate for purposes of this Act until the Administrator makes the ascertainment or until the House of Representatives and the Senate certify the results of the elections, whichever occurs first.”

(b) REGULATIONS.—Not later than 270 days after the date of enactment of this Act, the Administrator of General Services shall promulgate regulations that establish standards and procedures to be followed by the Administrator in making any future determination regarding ascertainment under section 3(c) of the Presidential Transition Act of 1963, as amended by subsection (a).

## **TITLE XII—PRESIDENTIAL AND VICE PRESIDENTIAL TAX TRANSPARENCY**

Sec. 120 Presidential and Vice Presidential tax transparency.

### **SEC. 1201. Presidential and Vice Presidential tax transparency.**

(a) DEFINITIONS.—In this section—

(1) The term “covered candidate” means a candidate of a major party in a general election for the office of President or Vice President.

(2) The term “major party” has the meaning given the term in section 9002 of the Internal Revenue Code of 1986.

(3) The term “income tax return” means, with respect to an individual, any return (as such term is defined in section 6103(b)(1) of the Internal Revenue Code of 1986,

except that such term shall not include declarations of estimated tax) of—

(A) such individual, other than information returns issued to persons other than such individual; or

(B) of any corporation, partnership, or trust in which such individual holds, directly or indirectly, a significant interest as the sole or principal owner or the sole or principal beneficial owner (as such terms are defined in regulations prescribed by the Secretary of the Treasury or his delegate).

(4) The term “Secretary” means the Secretary of the Treasury or the delegate of the Secretary.

(b) DISCLOSURE.—

(1) IN GENERAL.—

(A) CANDIDATES FOR PRESIDENT AND VICE PRESIDENT.—Not later than the date that is 15 days after the date on which an individual becomes a covered candidate, the individual shall submit to the Federal Election Commission a copy of the individual’s income tax returns for the 10 most recent taxable years for which a return has been filed with the Internal Revenue Service.

(B) PRESIDENT AND VICE PRESIDENT.—With respect to an individual who is the President or Vice President, not later than the due date for the return of tax for each taxable year, such individual shall submit to the Federal Election Commission a copy of the individual’s income tax returns for the taxable year and for the 9 preceding taxable years.

(C) TRANSITION RULE FOR SITTING PRESIDENTS AND VICE PRESIDENTS.—Not later than the date that is 30 days after the date of enactment of this section, an individual who is the President or Vice President on such date of enactment shall submit to the Federal Election Commission a copy of the income tax returns for the 10 most recent taxable years for which a return has been filed with the Internal Revenue Service.

(2) FAILURE TO DISCLOSE.—If any requirement under paragraph (1) to submit an income tax return is not met, the chairman of the Federal Election Commission shall submit to the Secretary a written request that the Secretary provide the Federal Election Commission with the income tax return.

(3) PUBLICLY AVAILABLE.—The chairman of the Federal Election Commission shall make publicly available each income tax return submitted under paragraph (1) in the same manner as a return provided under section 6103(l)(23) of the Internal Revenue Code of 1986 (as added by this section).

(4) TREATMENT AS A REPORT UNDER THE FEDERAL ELECTION CAMPAIGN ACT OF 1971.—For purposes of the Federal Election Campaign Act of 1971, any income tax return submitted under paragraph (1) or provided under section 6103(l)(23) of the Internal Revenue Code of 1986 (as added by this section) shall, after redaction under paragraph (3) or subparagraph (B)(ii) of such section, be treated as a report filed under the Federal Election Campaign Act of 1971.

(c) DISCLOSURE OF RETURNS OF PRESIDENTS AND VICE PRESIDENTS AND CERTAIN CANDIDATES FOR PRESIDENT AND VICE PRESIDENT.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is

amended by adding at the end the following new paragraph:

“(23) DISCLOSURE OF RETURN INFORMATION OF PRESIDENTS AND VICE PRESIDENTS AND CERTAIN CANDIDATES FOR PRESIDENT AND VICE PRESIDENT.—

“(A) IN GENERAL.—Upon written request by the chairman of the Federal Election Commission under section 1201(b)(2) of the Protecting Our Democracy Act, not later than the date that is 15 days after the date of such request, the Secretary shall provide copies of any return which is so requested to officers and employees of the Federal Election Commission whose official duties include disclosure or redaction of such return under this paragraph.

“(B) DISCLOSURE TO THE PUBLIC.—

“(i) IN GENERAL.—The chairman of the Federal Election Commission shall make publicly available any return which is provided under subparagraph (A).

“(ii) REDACTION OF CERTAIN INFORMATION.—Before making publicly available under clause (i) any return, the chairman of the Federal Election Commission shall redact such information as the Federal Election Commission and the Secretary jointly determine is necessary for protecting against identity theft, such as social security numbers.”

(2) CONFORMING AMENDMENTS.—Section 6103(p)(4) of such Code is amended—

(A) in the matter preceding subparagraph (A) by striking “or (22)” and inserting “(22), or (23)”; and

(B) in subparagraph (F)(ii) by striking “or (22)” and inserting “(22), or (23)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to disclosures made on or after the date of enactment of this Act.

## **DIVISION C—DEFENDING ELECTIONS AGAINST FOREIGN INTERFERENCE**

# **TITLE XIII—REPORTING FOREIGN INTERFERENCE IN ELECTIONS**

### **SEC. 1301. Federal campaign reporting of foreign contacts.**

(a) INITIAL NOTICE.—

(1) IN GENERAL.—Section 304 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30104) is amended by adding at the end the following new subsection:

“(j) DISCLOSURE OF REPORTABLE FOREIGN CONTACTS.—

“(1) COMMITTEE OBLIGATION TO NOTIFY.—Not later than 1 week after a reportable foreign contact, each political committee shall notify the Federal Bureau of Investigation and the Commission of the reportable foreign contact and provide a summary of the circumstances with respect to such reportable foreign contact. The Federal Bureau of Investigation, not later than 1 week after receiving a notification from a political committee under this paragraph, shall submit to the

political committee, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate written or electronic confirmation of receipt of the notification.

“(2) INDIVIDUAL OBLIGATION TO NOTIFY.—Not later than 3 days after a reportable foreign contact—

“(A) each candidate and each immediate family member of a candidate shall notify the treasurer or other designated official of the principal campaign committee of such candidate of the reportable foreign contact and provide a summary of the circumstances with respect to such reportable foreign contact; and

“(B) each official, employee, or agent of a political committee shall notify the treasurer or other designated official of the committee of the reportable foreign contact and provide a summary of the circumstances with respect to such reportable foreign contact.

“(3) REPORTABLE FOREIGN CONTACT.—In this subsection:

“(A) IN GENERAL.—The term ‘reportable foreign contact’ means any direct or indirect contact or communication that—

“(i) is between—

“(I) a candidate, an immediate family member of the candidate, a political committee, or any official, employee, or agent of such committee; and

“(II) an individual that the person described in subclause (I) knows, has reason to know, or reasonably believes is a covered foreign national; and

“(ii) the person described in clause (i)(I) knows, has reason to know, or reasonably believes involves—

“(I) an offer or other proposal for a contribution, donation, expenditure, disbursement, or solicitation described in section 319; or

“(II) coordination or collaboration with, an offer or provision of information or services to or from, or persistent and repeated contact with, a covered foreign national in connection with an election.

“(B) EXCEPTIONS.—

“(i) CONTACTS IN OFFICIAL CAPACITY AS ELECTED OFFICIAL.—The term ‘reportable foreign contact’ shall not include any contact or communication with a covered foreign national by an elected official or an employee of an elected official solely in an official capacity as such an official or employee.

“(ii) CONTACTS FOR PURPOSES OF ENABLING OBSERVATION OF ELECTIONS BY INTERNATIONAL OBSERVERS.—The term ‘reportable foreign contact’ shall not include any contact or communication with a covered foreign national by any person which is made for purposes of enabling the observation of elections in the United States by a foreign

national or the observation of elections outside of the United States by a candidate, political committee, or any official, employee, or agent of such committee.

“(iii) EXCEPTIONS NOT APPLICABLE IF CONTACTS OR COMMUNICATIONS INVOLVE PROHIBITED DISBURSEMENTS.—A contact or communication by an elected official or an employee of an elected official shall not be considered to be made solely in an official capacity for purposes of clause (i), and a contact or communication shall not be considered to be made for purposes of enabling the observation of elections for purposes of clause (ii), if the contact or communication involves a contribution, donation, expenditure, disbursement, or solicitation described in section 319.

“(C) COVERED FOREIGN NATIONAL DEFINED.—

“(i) IN GENERAL.—In this paragraph, the term ‘covered foreign national’ means—

“(I) a foreign principal (as defined in section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b))) that is a government of a foreign country or a foreign political party;

“(II) any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal described in subclause (I) or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal described in subclause (I); or

“(III) any person included in the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury pursuant to authorities relating to the imposition of sanctions relating to the conduct of a foreign principal described in subclause (I).

“(ii) CLARIFICATION REGARDING APPLICATION TO CITIZENS OF THE UNITED STATES.—In the case of a citizen of the United States, subclause (II) of clause (i) applies only to the extent that the person involved acts within the scope of that person’s status as the agent of a foreign principal described in subclause (I) of clause (i).

“(4) IMMEDIATE FAMILY MEMBER.—In this subsection, the term ‘immediate family member’ means, with respect to a candidate, a parent, parent-in-law, spouse, adult child, or sibling.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to reportable foreign contacts which occur on or after the date of the enactment of this Act.

(b) INFORMATION INCLUDED ON REPORT.—

(1) IN GENERAL.—Section 304(b) of such Act (52 U.S.C. 30104(b)) is amended—

- (A) by striking “and” at the end of paragraph (7);
  - (B) by striking the period at the end of paragraph (8) and inserting “; and”;
- and
- (C) by adding at the end the following new paragraph:

“(9) for any reportable foreign contact (as defined in subsection (j)(3))—

“(A) the date, time, and location of the contact;

“(B) the date and time of when a designated official of the committee was notified of the contact;

“(C) the identity of individuals involved; and

“(D) a description of the contact, including the nature of any contribution, donation, expenditure, disbursement, or solicitation involved and the nature of any activity described in subsection (j)(3)(A)(ii)(II) involved.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to reports filed on or after the expiration of the 60-day period which begins on the date of the enactment of this Act.

### **SEC. 1302. Federal campaign foreign contact reporting compliance system.**

(a) IN GENERAL.—Section 302 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30102) is amended by adding at the end the following new subsection:

“(j) REPORTABLE FOREIGN CONTACTS COMPLIANCE POLICY.—

“(1) REPORTING.—Each political committee shall establish a policy that requires all officials, employees, and agents of such committee to notify the treasurer or other appropriate designated official of the committee of any reportable foreign contact (as defined in section 304(j)) not later than 3 days after such contact was made.

“(2) RETENTION AND PRESERVATION OF RECORDS.—Each political committee shall establish a policy that provides for the retention and preservation of records and information related to reportable foreign contacts (as so defined) for a period of not less than 3 years.

“(3) CERTIFICATION.—

“(A) IN GENERAL.—Upon filing its statement of organization under section 303(a), and with each report filed under section 304(a), the treasurer of each political committee (other than an authorized committee) shall certify that—

“(i) the committee has in place policies that meet the requirements of paragraphs (1) and (2);

“(ii) the committee has designated an official to monitor compliance with such policies; and

“(iii) not later than 1 week after the beginning of any formal or informal affiliation with the committee, all officials, employees, and agents of such committee will—

“(I) receive notice of such policies;

“(II) be informed of the prohibitions under section 319; and

“(III) sign a certification affirming their understanding of such policies and prohibitions.

“(B) AUTHORIZED COMMITTEES.—With respect to an authorized committee, the candidate shall make the certification required under subparagraph (A).”

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply with respect to political committees which file a statement of organization under section 303(a) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30103(a)) on or after the date of the enactment of this Act.

(2) TRANSITION RULE FOR EXISTING COMMITTEES.—Not later than 30 days after the date of the enactment of this Act, each political committee under the Federal Election Campaign Act of 1971 shall file a certification with the Federal Election Commission that the committee is in compliance with the requirements of section 302(j) of such Act (as added by subsection (a)).

### **SEC. 1303. Criminal penalties.**

Section 309(d)(1) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30109(d)(1)) is amended by adding at the end the following new subparagraphs:

“(E) Any person who knowingly and willfully commits a violation of subsection (j) or (b)(9) of section 304 or section 302(j) shall be fined not more than \$500,000, imprisoned not more than 5 years, or both.

“(F) Any person who knowingly and willfully conceals or destroys any materials relating to a reportable foreign contact (as defined in section 304(j)) shall be fined not more than \$1,000,000, imprisoned not more than 5 years, or both.”

### **SEC. 1304. Report to congressional intelligence committees.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Director of the Federal Bureau of Investigation shall submit to the congressional intelligence committees a report relating to notifications received by the Federal Bureau of Investigation under section 304(j)(1) of the Federal Election Campaign Act of 1971 (as added by section 1301(a) of this Act).

(b) ELEMENTS.—Each report under subsection (a) shall include, at a minimum, the following with respect to notifications described in subsection (a):

(1) The number of such notifications received from political committees during the year covered by the report.

(2) A description of protocols and procedures developed by the Federal Bureau of Investigation relating to receipt and maintenance of records relating to such notifications.

(3) With respect to such notifications received during the year covered by the report, a description of any subsequent actions taken by the Director resulting from the receipt of such notifications.



(c) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term “congressional intelligence committees” has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

**SEC. 1305. Rule of construction.**

Nothing in this title or the amendments made by this title shall be construed—

- (1) to impede legitimate journalistic activities; or
- (2) to impose any additional limitation on the right to express political views or to participate in public discourse of any individual who—
  - (A) resides in the United States;
  - (B) is not a citizen of the United States or a national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and
  - (C) is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

## TITLE XIV—ELIMINATING FOREIGN INTERFERENCE IN ELECTIONS

**SEC. 1401. Clarification of application of foreign money ban.**

(a) CLARIFICATION OF TREATMENT OF PROVISION OF CERTAIN INFORMATION AS CONTRIBUTION OR DONATION OF A THING OF VALUE.—Section 319 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30121) is amended by adding at the end the following new subsection:

“(c) CLARIFICATION OF TREATMENT OF PROVISION OF CERTAIN INFORMATION AS CONTRIBUTION OR DONATION OF A THING OF VALUE.—For purposes of this section, a ‘contribution or donation of money or other thing of value’ includes the provision of opposition research, polling, or other non-public information relating to a candidate for election for a Federal, State, or local office for the purpose of influencing the election, regardless of whether such research, polling, or information has monetary value, except that nothing in this subsection shall be construed to treat the mere provision of an opinion about a candidate as a thing of value for purposes of this section.”

(b) CLARIFICATION OF APPLICATION OF FOREIGN MONEY BAN TO ALL CONTRIBUTIONS AND DONATIONS OF THINGS OF VALUE AND TO ALL SOLICITATIONS OF CONTRIBUTIONS AND DONATIONS OF THINGS OF VALUE.—Section 319(a) of such Act (52 U.S.C. 30121(a)) is amended—

- (1) in paragraph (1)(A), by striking “promise to make a contribution or donation” and inserting “promise to make such a contribution or donation”;
- (2) in paragraph (1)(B), by striking “donation” and inserting “donation of money or other thing of value, or to make an express or implied promise to make such a contribution or donation,”; and
- (3) by amending paragraph (2) to read as follows:

“(2) a person to solicit, accept, or receive (directly or indirectly) a contribution or donation described in subparagraph (A) or (B) of paragraph (1), or to solicit, accept, or receive (directly or indirectly) an express or implied promise to make such a contribution or donation, from a foreign national.”

(c) ENHANCED PENALTY FOR CERTAIN VIOLATIONS.—

(1) IN GENERAL.—Section 309(d)(1) of such Act (52 U.S.C. 30109(d)(1)), as amended by section 1303, is further amended by adding at the end the following new subparagraph:

“(G)

(i) Any person who knowingly and willfully commits a violation of section 319 which involves a foreign national which is a government of a foreign country or a foreign political party, or which involves a thing of value consisting of the provision of opposition research, polling, or other non-public information relating to a candidate for election for a Federal, State, or local office for the purpose of influencing the election, shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

“(ii) In clause (i), each of the terms ‘government of a foreign country’ and ‘foreign political party’ has the meaning given such term in section 1 of the Foreign Agents Registration Act of 1938, as Amended (22 U.S.C. 611).”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to violations committed on or after the date of the enactment of this Act.

**SEC. 1402. Requiring acknowledgment of foreign money ban by political committees.**

(a) PROVISION OF INFORMATION BY FEDERAL ELECTION COMMISSION.—Section 303 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30103) is amended by adding at the end the following new subsection:

“(e) ACKNOWLEDGMENT OF FOREIGN MONEY BAN.—

“(1) NOTIFICATION BY COMMISSION.—Not later than 30 days after a political committee files its statement of organization under subsection (a), and biennially thereafter until the committee terminates, the Commission shall provide the committee with a written explanation of section 319.

“(2) ACKNOWLEDGMENT BY COMMITTEE.—

“(A) IN GENERAL.—Not later than 30 days after receiving the written explanation of section 319 under paragraph (1), the committee shall transmit to the Commission a signed certification that the committee has received such written explanation and has provided a copy of the explanation to all members, employees, contractors, and volunteers of the committee.

“(B) PERSON RESPONSIBLE FOR SIGNATURE.—The certification required under subparagraph (A) shall be signed—

“(i) in the case of an authorized committee of a candidate, by the candidate; or

“(ii) in the case of any other political committee, by the treasurer of the committee.”

(b) EFFECTIVE DATE; TRANSITION FOR EXISTING COMMITTEES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply with respect to political committees which file statements of organization under section 303 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30103) on or after the date of the enactment of this Act.

(2) TRANSITION FOR EXISTING COMMITTEES.—

(A) NOTIFICATION BY FEDERAL ELECTION COMMISSION.—Not later than 90 days after the date of the enactment of this Act, the Federal Election Commission shall provide each political committee under such Act with the written explanation of section 319 of such Act, as required under section 303(e)(1) of such Act (as added by subsection (a)).

(B) ACKNOWLEDGMENT BY COMMITTEE.—Not later than 30 days after receiving the written explanation under subparagraph (A), each political committee under such Act shall transmit to the Federal Election Commission the signed certification, as required under section 303(e)(2) of such Act (as added by subsection (a)).

**SEC. 1403. Prohibition on contributions and donations by foreign nationals in connections with ballot initiatives and referenda.**

(a) IN GENERAL.—Section 319(a)(1)(A) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30121(a)(1)(A)) is amended by striking “State, or local election” and inserting the following: “State, or local election, including a State or local ballot initiative or referendum”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to elections held in 2022 or any succeeding year.

**DIVISION D—SEVERABILITY**

**TITLE XV—SEVERABILITY**

**SEC. 1501. Severability.**

If any provision of this Act or any amendment made by this Act, or the application of a provision of this Act or an amendment made by this Act to any person or circumstance, is held to be unconstitutional, the remainder of this Act, and the application of the provisions to any person or circumstance, shall not be affected by the holding.

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